

Frequently Asked Questions

If I go bankrupt, will my debt go away?

The debt that most people are in trouble with seems to be credit card debt, store cards, personal loans (unsecured), and in some cases, personal income tax and GST.

In these cases, despite what some of the debt collectors will tell you, yes bankruptcy cancels the debt. With ordinary personal loans and credit card debt and the like, you don't have to start paying it again once your 3 years of bankruptcy is finished. A debt collector who recently consulted with me about his own bankruptcy told me that he was told to say that you did, even though he knew it to be wrong.

So with bankruptcy, stop paying it

Once you've definitely decided to go bankrupt, I see no reason to even keep up with your credit card payments and the like. I'd rather see you get up to date with paying the debts that you'll have to keep paying after bankruptcy, like gas, electricity, rent and the like. If you've been going without, and some people say that they have been, even buy more food.

Sort out your priorities, and start getting yourself back on your feet so that you can get on with your life.

You can expect bankruptcy to cancel your credit cards and store cards. I've known instances where this did not happen when the person going bankrupt did not owe any money on a particular card at the date of bankruptcy and so didn't have to list it as a debt owing.

If that happens, and you continue to use that card after you go bankrupt, make sure that you do not allow your credit balance to then go over the limits of credit that a bankrupt can have. I think that the relevant amount is about \$4,692.

I also suggest that you could change banks and find one that issues Visa or Mastercard debit cards as part of their account. These do not have any credit attached to it and so you can't get into debt with it, because it only operates on the money that you have in your account at the time.

At least you have a Visa or Mastercard again, and can use it for phone and internet transactions, and in shops. It helps with something called self esteem too.

Some debt doesn't get cancelled by bankruptcy, you still have to pay it. That's generally debt to Centrelink, child support debt, court imposed fines (you have to had been to court though to get this debt), and some debt associated with HECS and student loans to do with HECS.

Traffic fines are a funny one. They're not cancelled by bankruptcy, because they are also considered to be a court imposed fine, but you can't renew your driver's licence until they are paid.

If I go bankrupt, how much can I earn and more importantly, how much can I keep?

Many people think that if they go bankrupt, all or most of their salary or wages will be taken off them to pay their debts. That's simply not true. The government provides you with the capacity to start again, to get back on your feet and so get on with your life.

Some debt collectors and possibly web sites, may tell you that even if you go bankrupt, they (your creditors) will still take you through the courts and garnishee your wages. (Garnisheeing your wages means your employer is ordered to deduct a fair bit from your salary or wages and send it to your creditor(s)).

That's absolute garbage, and typical of some of the misinformation that you'll be told by the people harassing you,

particularly by the people who you will read about in this web site who I have labelled as “second hand debt salesmen”. The debt collectors and creditors and second hand debt salesmen can't, and don't, do it once you've gone bankrupt. If they do, refer this harassment to your bankruptcy trustee. I've known trustees to send the odd persistent debt collector packing with his tail between his legs.

The government have given you the option to go bankrupt more or less as a last resort, as a humanitarian sort of thing. They expect you to have tried to pay your debts, but they don't understand yet that for many of us, the people chasing and often harassing you, to pay what they claim is your debt, make it too hard for you to work something affordable and sensible out.

I also think that there should be some government requirement that if our debt has been sold we should be told, in writing, and given an account as to just what our debt is, and who it is claimed we now owe it to, before the harassing calls can start.

As you will read in the Information Notes, the banks and credit card companies who we owed money to have in fact, in some cases, sold your debt for a lesser amount than was owed, to somebody who we don't even know, in full and final payment of your debt as far as the bank or whoever is concerned.

I feel that if we owed somebody say \$10,000 and they accepted \$1,500 from an unknown (to us) third party in full payment of the debt, then we should be properly informed. To my mind, the question then is, (a) should the credit rating agencies be informed that the debt (of \$10,000) has been settled for less, and (b) for how much.

If we were told these things then perhaps there would not be so many bankruptcies, as we could negotiate better with the “second hand debt salesmen” on a practical and fair settlement amount with them.

Also, the obvious question is, if the banks etc were prepared to settle our debt by accepting about 15 cents in the dollar for it from a third party, unknown to us, then why weren't we, the people who owe the money, given the chance to settle it for the same amount, or given longer to pay off the original loan when the wheels fell off for us?

Doesn't seem right does it, doesn't pass the smell test.

From stories that I hear, these people buy your debt for about 15 cents in the dollar, the bank or whoever you owe the money to then writes your debt off and they claim a tax deduction. These second hand debt salesmen then jump on you to pay them 75 cents in the dollar, often in a short time frame.

Ned Kelly was in the wrong game, he could have lived to be 100 if he had known about this.

The option to go bankrupt is designed by the government to give you the chance to start again, debt and harassment free

Although there are some penalties which I will cover later in this web site, so please read all of the Information Notes, the government has also established some starting points to help you to get going again. One of these starting points is to do with the income that, as a bankrupt, you can earn and keep.

As a bankrupt, with no dependants at all, during the 3 years of your bankruptcy, you can earn on average a minimum, note that it's a minimum of at least \$812.35 per week net take home pay.

That's cash for you to live on, to spend. It's after tax and after child support if that's applicable. It's after business expenses too if you are able to stay in business whilst bankrupt.

The figure is higher if you've got dependants.

\$812.35 net per week is the base starting point that you can earn per week before you have to share any of your income with your bankruptcy trustee. It's referred to as your Threshold Amount.

If your net income is higher than the threshold amounts, the trustee can only ask for 50% of the excess. I cover this in Bankruptcy Information Sheet 1 and Bankruptcy Information Sheet 2. Please click and read them.
What assets can I keep if I go bankrupt?

If you're drowning in debt and don't declare yourself bankrupt (Bankruptcy Information Sheet 5) or take either of the other options discussed in Bankruptcy Information Sheet 3, then the debt collectors and lawyers could deal with you through the legal system, and eventually have the sheriff take away a lot of your possessions and sell them.

This indignity needn't happen. In the Bankruptcy Information Sheets I'll show you how, under what I loosely call "the umbrella of bankruptcy", you can stop it happening.

Most people who go bankrupt hardly ever lose their car, if they want to keep it. Furniture and ordinary household items and things for the use of students and children are hardly ever at risk either. This is covered in Bankruptcy Information Note 2.

Tools of trade to the value (2nd hand) of about \$3,350 per bankrupt person are safe too, as is an asset held by you in trust for somebody else.

If you take the bankruptcy option, and the house is in joint names to start off with, and only one party goes bankrupt, then sometimes the remaining part owner may be able to buy the bankrupt's equity in the house off the bankrupt partner's bankruptcy trustee, at market value, and this saves the house.

This may or may not mean a refinancing of the mortgage by the non bankrupt joint owner.

If the house is in your name, somebody else (grandma) may be able to negotiate with the bankruptcy trustee to buy your equity in the house back off the bankruptcy. If this could be you then set out your circumstances in an email to Alan Nicholls please, alan@fredappleton.com.au telling him the names of the people who own the house and are on the mortgage, what you honestly think that the house would sell for today, how much is owed on the mortgage, any arrears in rates, what your incomes are, and things like that. Label your email, saving the house, Fred Appleton's website. Include your contact telephone number(s). Give Alan a couple of days to call you. If you've missed his call after say 4 or 5 days, give me a call on 1300 794 492 and I'll chase him up.

A bankruptcy trustee does have the power to sell the house though. I cover this in Bankruptcy Information Note 4.

Alternatively, looking at what's called a Debt Agreement Proposal, or a Personal Insolvency Agreement, as outlined in Bankruptcy Information Note 3, may save the house. However, don't be surprised if the creditors want you to sell your house as part of your offer

With bankruptcy you'll also lose things like shares, investments, speedboats and money in the bank at the date of your bankruptcy etc, and you can't get many assets in your name for the 3 years of your bankruptcy either.

If you are contemplating bankruptcy and you have these sort of assets, why not sell them before you go bankrupt, and use the funds to help set yourself up for the three years of your bankruptcy, eg, get bills like your rent up to date, your electricity paid, a better fridge, and things like that.

For example, if you are married or live with a partner, and you sold say some shares before bankruptcy, perhaps you could use the proceeds to pay the rent and buy the groceries until the funds had been spent. Don't go bankrupt until you

do. Your spouse or partner could just keep their income in the bank in full in that period.

You may prefer to do this rather than pay the debt collectors who harass you day and night, sometimes more than once a day, and even on Sundays. Undue harassment can be counter productive.

What about my car?

In the real world people rarely lose cars with bankruptcy because mostly the debt on the car is more than the car is worth. In this case I simply advise clients who want to keep their car to have the car loan up to date when they go bankrupt, and to then keep the repayments up to date. I discuss cars more in Bankruptcy Information Note 2. Whether being unable to pay your debts means that you have to go bankrupt.

No, you don't. The alternatives that I deal with in Bankruptcy Information Note 3, mainly the Debt Agreement Proposal option and the Personal Insolvency Agreement option, may mean that you don't go bankrupt.

I think that Debt Agreement Proposals are really aggressively oversold through the media, and then again when the Debt Agreement salesman calls around.

One of the practical problems with Debt Agreement Proposals is that they can keep you under pressure to perform, week in and week out. Compared to Debt Agreement Proposals, bankruptcy is swift and clean.

Sometimes, having a Debt Agreement (or for larger debt a Personal Insolvency Agreement) in place, means that down the track a bit a lot of people find that they simply can't keep up their new commitments. This then further compounds their misery and so it puts them further behind the eight ball. Then your options are to see if the repayment amounts can be reduced and the number of payments (and your misery) extended over a longer period. Alternatively, you can go bankrupt.

Can I go overseas if I'm bankrupt?

The short answer is yes. I cover this in Bankruptcy Information Note 5.

Can my salary or wages be garnisheed by my creditors while I'm bankrupt?

As you've read earlier the short answer is no.

Bankruptcy gives you an enormous amount of protection and relief from the constant harassment and the threats that you've been subjected to, and of the type of things that supposedly can and will happen to you.

For your wages to be garnisheed, in a nutshell, the people that you owe money to have to take you to court before they are in a position to do anything to you like they're telling you that they will. Mostly, at the time of reading this, you're months away from real trouble. If you go bankrupt, they can't do this.

Under certain circumstances, your bankruptcy trustee can garnishee your wages if you try to avoid some of your obligations. You'll read about this.

Will my employer be told.

Short answer is no. However if you owe your employer's organisation some money, then they are a creditor and will be notified in that capacity.

Also, some clients have been issued shares in their employer's business. If you go bankrupt then when your employer is informed that your bankruptcy trustee now controls your shareholding, then in that type of circumstance your employer can find out.

Are things as bad as I think they are?

If you consider your options and then decide to take the steps that you'll be shown are available to you in the Information Notes on this website, then mostly you'll probably find that things do not turn out as bad for you as you think that they might.

You'll be able to sleep again.

Here's an extract from a letter that I received in early 2006.

"Dear Fred, I 'm writing to express my appreciation for your assistance with my personal bankruptcy last November. I was very nervous about the whole thing, but your knowledge and reassurance were most comforting. I now feel like a free woman again and life has taken on a very new complexion for me. Your web site was the first ray of light in a world which had become very dark. Once again, many thanks"

More Testimonials are in Bankruptcy Information Note 6. They're all real.

If you'd like to ask any questions or get some further free information and advice, then after you've first printed out this website and read it and highlighted the bits where I talk about you, then why not set your thoughts out in an email and send them to hello@fredappleton.com.au and you'll be answered by phone and/or email either by myself or my associate Helen. Make sure that you include your contact phone number please.
Are there any penalties for going bankrupt?

I've already mentioned the situation with your assets and your income, and that you'll be bankrupt for 3 years.

You'll also get a bad credit rating with the credit rating agencies for 7 years. Most people tell me that they've already got a bad credit rating anyway, so this is now hardly an issue.

The government's bankruptcy trustee service will enter your name and some details on their database, called the National Personal Insolvency Index, and you're there for life.

I cover this in Bankruptcy Information Note 5.
How do I go bankrupt?

If after reading these Information Notes and emailing for some free help and advice from either Helen or myself at hello@fredappleton.com.au, or calling or emailing Alan Nicholls or Nick Crouch and you then decide to go bankrupt, I offer 2 main options. They are mentioned below, and explained in Bankruptcy Information Note 5.

For \$143.00 I offer an email Do- I t-Yourself option. This is a good service and full details are in Bankruptcy Information Note 5 .

For \$396 there is my over the internet bankruptcy service whereby we send you a series of questionnaires and from your answers sent back to us, Helen gets the bankruptcy documentation completed. It's been the mainstay of this service for years. It's also available by mail but at an extra \$44 fee.

With each of these services you could ordinarily expect to be bankrupt and out of debt in about a week.
Gambling, am I in trouble, will I go to jail?

The bankruptcy people don't like it, but I don't know anybody who has gone to jail. Have a look at what I 've said in Bankruptcy Information Note 4.
After I go bankrupt, can I volunteer to pay my debts?

I regularly hear that people want to pay their debt, but right now they can't. To that I often say that after the 3 years of your bankruptcy is up, you can voluntarily pay your creditors later on if you want to, at a rate that you can afford, say over the next 10 or 20 years.

You see, with bankruptcy the boot is now on the other foot. You personally no longer legally owe the debt, so your creditors and the second hand debt salesmen can't dictate to you what and when you must pay them. They're not even allowed to try and contact you because with bankruptcy you personally don't have to pay them anything. The awful harassment simply stops.

As you've read by now, under certain scenarios during the course of your bankruptcy, which is normally 3 years, you may have to make some payments to your bankruptcy trustee from your income during those 3 years (see Bankruptcy Information Note 1), and in some cases you may have an asset which the trustee can sell. Your bankruptcy creditors can only look to your bankruptcy trustee for payment from these funds (if any).

After your bankruptcy is over, although you don't have to, there's nothing to stop you then privately feeling that you can afford to put something aside each pay, and say every 3 months privately declaring a dividend to your creditors. If you do this it can be over whatever period that you want. That's what I'm doing.

If you don't want to do that then you don't have to, nobody can make you, nobody can stop you. Some people tell me that they'd like to. Whether they still feel that way in 3 years time, who knows?

In this way, after your 3 years of bankruptcy, your creditor gets what you can pay him, without others like your bankruptcy trustee, and perhaps the government, taking a big cut first. That's why I say, wait for 3 years.

If you do this, and I can't stress enough that you don't have to, make sure that you only pay the person who you really owed the money to in the first place. Why bother paying the "second hand debt salesmen" types who thought that it was ok to so harass and bully you? When I get around to repaying the banks, if the second hand debt salesmen have got into the act, my feeling would be that I need only consider that I owed the bank about 80% to 85% of what I owed them when I went bankrupt.

Also, how do you feel about the bank or whoever it was who sold your debt to the "second hand debt salesmen" in the first place, without your knowledge? I reckon that they've got a bit to answer for, and that the government should look at this.

Now here's something interesting. In 2009 when I tried to pay the banks back two of them separately sent the cheques back. They said that as the debt was written off more than 7 years ago, it was illegal for them to take the payment. What If The Court Sends Me Bankrupt.

The 3 years of your bankruptcy doesn't start until you've filled out and lodged with whoever has been named as your trustee the form called Statement of Affairs. Sometimes people drag the chain about this, which is mad.

Get the form done and into the trustee asap, so that you can start again to get back on your feet and on with your life. If you'd like us to do the forms for you then my \$396 service could do this. Just email Helen at hello@fredappleton.com.au and tell her that you've been declared bankrupt by the court, and that you'd like her to send you what we call our Questionnaires so that you can get the Statement of Affairs done.

I think that you'll save yourself a lot of grief if you do.
Company Directors and Bankruptcy

Company directors have got a real potential problem if they allow the tax office to issue them with what is called a Director Penalty Notice, making them personally liable for unpaid employee contributions. Alan Nicholls website www.nichollSCO.com.au has got a special section on this so I suggest that you have a look at it. At the website go to the right hand side and the ATO Notices section. Do it quickly, don't muck around. Then, obligation free, either call him on

1300 794 492 or email him at alan@fredappleton.com.au
Do I have to be in Australia to go bankrupt in Australia?

Sometimes You can get information on this matter by calling the following TOLL FREE numbers:

International Prefix 800 8001 8811 (some countries may require an additional Service Carrier Number when dialing)

From Belgium, China, Denmark, France, Germany, Ireland, Israel, Malaysia, Netherlands, New Zealand, Norway, Philippines, Sweden, Switzerland, United Kingdom, call 00 800 8001 8811.

From Hong Kong, Singapore, South Korea, Thailand, call 001 800 8001 8811

From Japan, call 010 800 8001 8811

From Canada and the USA, call 011 800 8001 8811

From Taiwan call 002 800 8001 8811

In all cases, it seems that you have to be able to establish an Australian connection and its very hard for people like me to be more specific than that. That's why you are asked to make the phone call.

Once you are satisfied that you can go bankrupt in Australia, I'd be quite happy to help you with the paperwork, so just send an email to hello@fredappleton.com.au and we'll take it from there.

If you have trouble with establishing the Australian connection bit, then we have advised people to get the paperwork done with us while you are still overseas, and then come back, and with your feet physically on the ground here, lodge the paperwork. Become bankrupt, then apply for permission to leave the country. In almost all cases you'll get the permission, if we think that its likely to be a problem when we do your paperwork, we'll certainly let you know, and try to sort out what's best for you.

Is there anything else?

Yes, there is a lot more in the Information Notes to help you. You'll read about keeping your car in Bankruptcy Information Note 2.

No matter how bad you think things are, simply remember that taking one of the options that I cover here will get rid of the debt collectors and their phone calls, you'll be able to sleep again.

You see, bankruptcy enables ordinary people to quickly get out of debt, to get back on their feet, and so be able to get on with their lives. And, it's very private.

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