Aged Pensioners & Bankruptcy

From time to time I come across age pensioners, whose life is now miserable because they've found themselves with, what is to them, overwhelming credit card and other debt. On a pension, unless they leave themselves short, they often find that can't make the repayments.

When talking to me, some of them have broken down and cried when they have realized that, with dignity, bankruptcy can cancel this debt and release them from this dreadful position.

They mostly don't know that their bankruptcy will last for only 3 years.

They all say that they didn't know that as a bankrupt, by law they can (each) earn a minimum very livable income, after tax, meaning weekly spending money, before any of it can be taken off them by their bankruptcy trustee.

Mostly, to a man or woman they tell me that they don't earn that as much as the bankruptcy allows anyway. But it's true, it's the law, and it changes (upward) every March and September.

A single age pensioner receiving a maximum pension per fortnight, is way below the allowable per week figure in bankruptcy.

As a couple they can receive the full age pension per fortnight, and still be way below the allowable bankruptcy figure, and so keep the lot.

What this means is that if an age pensioner (who rents) goes bankrupt, they can stop paying their debts like credit card and most other loans like that forever, and so keep the full amount of their pension to buy food, and to live on.

If you've got property like a house or a car I'll come to that shortly.

Most however feel that that's not right, that they were brought up in the era where you had to pay your debts. But that era also required the banks and other lenders to act more responsibly in deciding who to lend money to, and how much, than is the case today.

There seems to be a lack of balance in responsibility now.

If you feel that despite everything you don't want to go bankrupt, well, bankruptcy law has attempted to provide a solution there too. In reality the solution is generally out of the reach of people living off an age pension, and maybe a few extra dollars too.

In bankruptcy law terms, these solutions are either called a Debt Agreement Proposal, or there's a Personal Insolvency Agreement. For age pensioners, both could be a bit expensive to set up. They also mostly seem to keep you still saddled with your debt, and a repayment regime spreading over a number of years, and coming out of your pension still.

In addition, with the Personal Insolvency Agreement procedures, (but not a bankruptcy) the fact that you're attempting to come to some arrangement to pay off your debt like this has to be advertised in both a local and national newspaper.

I can't see many pensioners, or anybody else for that matter, wanting to be shamed in this way, nor do I think that they should be.

Furthermore, with both of these scenarios, if the wheels fall off again and something pops up which makes it difficult or impossible to keep up the repayments, as they're more likely to do as we get older, then you're in trouble again.

If you don't want to go bankrupt, then with these other two options, there's then a bit of a routine and procedure that the law sets out to happen, to try and get your repayments frozen again for a while, or reduced. More cost for you, and they don't go away.

I think that a better answer is for you, after you go bankrupt, is to voluntarily just set aside what you can, and when you can, and then just chip away at the debt, if you want to (but by law you don't have to), at your own pace, and in your own time. Look at as being a bit like the old saying "a dollar down and a dollar a week".

Nobody can make you do this though, as bankruptcy cancels the sort of debt that I'm talking about.

In an overwhelmingly majority of cases, bankruptcy lasts for 3 years, and in that time, or at the end of it, by law, you don't have to pay back this debt again, ever.   Some shady debt collectors may tell you that you do (and there's a few around like that), but that's not right.

Another great relief for age pensioners is that their bankruptcy is not advertised in the media anywhere.   It's very private. If you bankrupt yourself then you don't have to go to Court either.

Your bankruptcy is recorded with the commercial credit rating agencies for 7 years though, so you will find it hard, if not impossible, to get credit or a loan again from the normal banking sources in that time.

Bankruptcy will cancel your credit cards, but these days some banks offer Visa debit cards, which can only be used if you have money in your bank account to immediately cover the cost of what you buy when using one, but at least you have a Visa card again.

The government also records your bankruptcy status on a database called the National Insolvency Index, and its there for life, and some information is accessible to the public, for a fee. To pensioners, I can't see that this would be an issue at all.

Most age pensioners are also very relieved to be told that even though they go bankrupt, they should be able to keep their car.

As a bankrupt you can keep a car where your (net) equity in it is no more than $6,300, and that's its wholesale value, not its card yard price. Age pensioners who are renters rarely have a late model car, so again, this is mostly never an issue.

If you are paying your car off and there's a Bill of Sale on it, the $6.300 net equity means it's the bit that you own as distinct from the bit that the bank or the finance company owns.

To get a guide on this, simply compare what you still owe on the Bill of Sale with what you think that a car dealer would offer you, in cash, not as a trade in, for it if you tried to sell it to them today.

The difference that's theoretically left after you paid the finance company out, would represent the bit that you own. If it's $6,300 or less, you should be ok.

If you're paying your car off like this though, you've got to be up to date with the repayments when you go bankrupt, and stay up to date if you want to keep the car.

Also, as a bankrupt, nobody is likely to come to the house to take your household furniture and belongings away. There may be a few exceptions here if the bankruptcy trustee was advised that the bankrupt had something really valuable, like a Mona Lisa hanging on the wall. (That's a bit of an exaggeration of course).

The government says that it can sell or take off you, during the 3 years of your bankruptcy, things like lottery wins or prizes of value (buy tickets in somebody else's name), assets left to you in a will in that time, your interest in the family home, land, money in your bank accounts (but not your pension income dealt with earlier), shares etc, antiques or other saleable property which are "of value" (the crucial words here are "of value").

This is rarely is an issue with people of age pension age who are considering bankruptcy. You're pretty much left alone.

If the aged pensioner owns a house then that's a bit of a worry, as generally the person's equity in the house means that they could get a loan to pay off the debts being discussed in this article.   I'd try not to go bankrupt if I owned a home.