



# DECLARATION OF INTENTION TO PRESENT A DEBTOR'S PETITION: INSTRUCTIONS AND FORM

September 2013

## To proceed with this declaration

1. Read the prescribed information on page 5 of the form
2. If you are authorising another person to talk to your creditors on your behalf, please ensure that this person has signed on page 1 of the form. Note that some creditors may ask you to separately provide them with an authority to discuss your affairs with this person.
3. Send your completed application within 28 days of signing to:

Email: [registry@afsa.gov.au](mailto:registry@afsa.gov.au)  
Fax: 08 8112 4305  
Post: GPO Box 1550, ADELAIDE SA 5001

## Instructions for completing the form

1. Use a black or blue pen.
2. Answer all questions. If a question does not apply to you, write 'N/A' (Not applicable) against that question.
3. If there is insufficient space to answer a question (e.g. you have more than 10 creditors), please attach an additional page with the required information.
4. If any of your creditors are related to you, you must disclose this against the debt by ticking the relevant check box. A related creditor includes any creditor who is your relative or your spouse's relative. It also includes any businesses, companies or trusts in which you, your spouse or your respective relatives may have an interest, for example:
  - a. You owe ABC Plumbers \$1000. Your spouse's nephew and one of his friends own this business. This makes ABC Plumbers a related creditor and you need to disclose this against the debt
  - b. You owe XYZ Pty Ltd \$500. XYZ Pty Ltd is owned by another company in which your son is a director. This makes XYZ a related creditor even though your son may not be a director of XYZ
5. If any of your assets are jointly owned, or you are jointly liable for a debt, you must tick the check box against the relevant asset or debt.
  - a. A joint asset is an asset which you and another person jointly own (such as a family home).
  - b. A joint liability is a debt which you owe with another person.

**Knowingly providing false and/or misleading information is an offence under the *Bankruptcy Act 1966* (the Act) and penalties apply on conviction**

## Information and assistance

If you do not understand a particular question or require further information, please call AFSA on 1300 364 785. If you do not speak English, an Interpreting Service is available for the cost of a local call from anywhere in Australia – phone 131 450.

## How your information is used

The information you provide on this form is collected under, and for the purposes of, the Bankruptcy Act (the Act).

1. A copy of your application along with a summary of the information in your application will be provided to all your listed creditors, authorised person (if applicable) and other individuals e.g. sheriff, paymaster you have listed.
2. The information may be used for the purpose of investigating offences committed under the Act or other legislation.

## Can your application be rejected?

You are unable to make this declaration and your application will be rejected if:

1. a creditor's petition is presented against you and it has been served on you
2. your property is subject to control under Division 2 of Part X of the Act
3. your application is presented within 6 months after you signed an authority under section 188 of the Act
4. you have a current debt agreement with your creditors
5. you have previously made such a declaration within the last 12 months.

## Applications by physically incapacitated persons and/or persons unable to read

If the applicant is unable to read, is insufficiently familiar with the English language or is unable to sign/complete the forms due to a physical incapacity, another person may complete the application where:

- the applicant is blind, partially sighted, illiterate or partially literate – the person has read the forms and the prescribed information to the applicant
- the applicant is insufficiently familiar with the English language – the person has interpreted the relevant information to the applicant in a language with which the applicant and this other person are both familiar
- the applicant is unable to sign due to a physical incapacity – the person believes that the applicant has read and understood the forms and prescribed information

The person assisting must state the reason/s why the applicant required assistance and must sign in the panel provided at the end of the form.

## Applications by mentally incapacitated persons

Where a guardian or administrator is appointed under relevant state/territory legislation to manage the financial affairs of mentally incapacitated persons, the appointed guardian or administrator must obtain a specific order from the relevant court/tribunal authorising the application on behalf of the mentally incapacitated applicant.

A specific order from the relevant court/tribunal is not required for presentation of the application by a guardian/administrator for appointments under the *Protected Estates Act 1983 (NSW)* and the *Guardianship and Administration Act 1990 (WA)* as the legislation itself provides sufficient authority to the guardian/administrator of the applicant.

**Note:** An application may not be presented on behalf of a mentally incapacitated debtor by the holder of a power of attorney granted by that debtor.