



# PROOF OF DEBT

*Bankruptcy Act 1966 Section 84(2), 85(2)*

## Privacy

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## Completing a Proof of Debt (POD)

### 1. When to lodge a Proof of Debt

A trustee of a Personal Insolvency Agreement (PIA) or bankruptcy will request you to lodge a POD where there are funds in the estate to distribute. A dividend will only be paid to those creditors whose POD has been admitted by the trustee. Correct completion of PODs will prevent delays in distribution of funds to the creditors. Return the completed POD to the trustee within the prescribed time as a dividend may be paid without further notice to you.

Note: The trustee may require you to verify the matters contained in your POD by way of a Statutory Declaration.

If such a request is made and you fail to provide the Statutory Declaration, then the trustee may disregard your POD.

### 2. Which debts are provable?

Not all debts are provable, for example

- debts incurred after the date of bankruptcy
- interest that has accrued after the date of bankruptcy
- debts owed by the bankrupt/ debtor's company if they are not supported by a personal guarantee.

Please do not include these in your claim. Your claim may be rejected for these amounts and result in delaying the payment of the dividend.

Further information on provable debts is available by calling AFSA on 1300 364 785, visiting [www.afsa.gov.au](http://www.afsa.gov.au) or the trustee.

### 3. Instructions on completion of the POD

It is your responsibility to prove to the trustee that you are owed the debt.

- Answer all questions on the form
- Calculate interest to the date of bankruptcy; or the date the PIA was executed by the Debtor (s) s 187(2)
- Total the amounts and check that your calculations are correct
- Sign and date the POD
- Attach documentary evidence of your claim. Evidence may include copies of:
  - invoices
  - statements
  - delivery dockets
  - relevant contracts
  - personal guarantees given by bankrupt/ debtors
  - loan contracts
  - judgments.

### 4. Separate, joint, and joint and several creditors

If two or more persons have become bankrupt or entered into a PIA together, creditors may have a claim against

- (a) only one of them
- (b) all of them jointly only, or
- (c) all of them jointly as well as in their individual capacities.

It is important that you indicate which situation applies to you (see Bankrupt/Debtor/s liability on page 2) so that the trustee is able to admit your claim in the correct estate. This information is generally available from your loan or credit contract document.

## Information for specific creditors

### 5. Secured creditors

Secured creditors must complete Do you hold any Security on page 3. A secured creditor can prove for all or part of their secured debt. Where a secured creditor surrenders their security to the trustee, a claim may be made for the whole of the debt. Where a secured creditor sells their security, a claim may be made for the shortfall or conversely the surplus must be given to the trustee.

Where a claim is made for the shortfall from the sale of an asset, an accounting for the sale must be attached to the POD. Where the property has not been sold, but a shortfall is anticipated in an eventual sale, the secured creditor can claim for the estimated shortfall amount.

### 6. Judgment creditors

The trustee may look behind a judgment to obtain further evidence of a debt. If you have obtained a judgment please provide details on page 3. Costs awarded in a judgment obtained prior to bankruptcy may be included.

### 7. Business/trade creditors

Disclose your ABN on page 3 if you are a business creditor. The trustee may be required to withhold tax on any dividend where the business creditor does not disclose its ABN. If the goods or services you supplied was for the bankrupt/debtor's business then you are also required to show the GST amount (if any) that is included in your debt on page 4.

### 8. Other

An executor of a deceased creditor's estate may prove in the bankruptcy in place of the deceased creditor.

## Debtor Details

Bankrupt/Debtor name/s (if there is more than two)

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Title                | Given name/s         | Surname              |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Title                | Given name/s         | Surname              |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

Trading name

Administration number

Date of administration (DD/MM/YYYY)

Bankrupt/Debtor/s liability  Separate  Joint  Joint & several

## Trustee Details

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Title                | Given name/s         | Surname              |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

Business address

Postcode

Contact number

Mobile number

Email address

Second Trustee Details:

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Title                | Given name/s         | Surname              |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Business address     |                      | Postcode             |
| <input type="text"/> |                      | <input type="text"/> |
| Contact number       | Mobile number        |                      |
| <input type="text"/> | <input type="text"/> |                      |
| Email address        |                      |                      |
| <input type="text"/> |                      |                      |

**Creditor Details**

|  |                      |  |
|--|----------------------|--|
| Creditor name  |                      |  |
| <input type="text"/>   |                      |  |
| Postal address   |                      | Postcode   |
| <input type="text"/>   |                      | <input type="text"/>                             |
| Creditor reference   | Creditor ABN         |  |
| <input type="text"/>   | <input type="text"/> |  |
| Contact information  |                      |  |
| Title  | Given name/s         | Surname  |
| <input type="text"/>   | <input type="text"/> | <input type="text"/>                             |
| Contact number   | Fax number           |  |
| <input type="text"/>   | <input type="text"/> |  |
| Email address  |                      |  |
| <input type="text"/>   |                      |  |
| Do you hold any security? <input type="radio"/> No <input type="radio"/> Yes     |                      | Estimated value of security <input type="text"/> |
| Description of security property   |                      |  |
| <input type="text"/>   |                      |  |
| Have you obtained a judgment? <input type="radio"/> No <input type="radio"/> Yes |                      | Judgment amount & costs <input type="text"/>     |
| Was this a default judgment? <input type="radio"/> No <input type="radio"/> Yes  |                      | Judgment number & court <input type="text"/>     |

### Details of Debt/s

| Date debt/s incurred | Details of debt/description (see note 2)      | GST<br>(see note 7) | Amount (\$) |
|----------------------|---|---------------------|-------------|
|                      |   |                     |             |
|                      |   |                     |             |
|                      |   |                     |             |
|                      |   |                     |             |
|                      |   |                     |             |
|                      |   |                     |             |
|                      | Less: Payments received in reduction of debts |                     |             |
|                      | Less: Estimated value of security             |                     |             |
|                      | Amount claimed                                |                     |             |

### Creditor Declaration

I declare that the bankrupt/debtor/s owe/s the amount claimed by the creditor named above.

Title  Given name/s  Surname

Signature  Date (DD/MM/YYYY)

Note: Lodging a false proof of debt is an offence which is punishable by imprisonment for 5 years: s263(1)(d).

| Admin Use Only   |  | Trustee Use Only   |  |                     |
|------------------|--|--|--|---------------------|
| Creditor ID      |  | Amount admitted in estate<br><input type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 |  | Preferential (\$)   |
| Liability ID     |  | Amount rejected (\$)   |  | Ordinary (\$)       |
| POD No.          |  | Reason rejected  |  | Deferred (\$)       |
| SoA Amt.         |  |  |  | Total Admitted (\$) |
| Reg'd. in estate |  |  |  |                     |
| Date of Reg'n.   |  |  |  |                     |

Signature of trustee  Date (DD/MM/YYYY)