



# STATEMENT OF AFFAIRS INSTRUCTIONS AND FORM

March 2015

## Instructions for completing the statement of affairs (SoA) form

1. Use a black or blue pen.
2. Answer all questions. If they do not apply to you, please write 'N/A' (Not Applicable)
3. If there is not enough space for you to answer a question, provide additional information on the Additional Notes page (page 2) of the form.
4. If your employer is related to you ('related entity'), you must disclose this fact at question 12 of the SoA form. If a creditor is related to you ('related entity'), you must disclose this fact at questions 38 and 40 of the SoA form. A related entity includes your relatives and the relatives of your spouse (including a de facto partner). It also includes any partnerships, bodies corporate (companies) or trusts in which you, your spouse, or your respective relatives may have an interest.  
For example:
  - i. You are employed by ABC Pty Ltd of which your spouse's nephew is a director. This makes ABC Pty Ltd a related employer and you need to disclose this on your SoA form.
  - ii. You are employed by DEF Pty Ltd which is owned by another company of which your sister is a director. This makes DEF Pty Ltd a related employer and you need to disclose this on your SoA form, even though your sister may not be a director of DEF Pty Ltd.
  - iii. You owe \$1000 to GHI Plumbers, a business which is owned by your spouse's brother and one of his friends. This makes GHI Plumbers a related creditor and you need to disclose this on your SoA form.
  - iv. You owe \$500 to JKL Pty Ltd, which is the trustee of a trust under which your uncle is a beneficiary. This makes JKL Pty Ltd a related creditor and you need to disclose this on your SoA form.
5. Some questions on the form require you to provide supporting documentation. Please ensure that you attach these documents. A document checklist is provided on page 20 of the SoA form. You are NOT required to attach invoices for every debt that you owe.

**Knowingly providing false and / or misleading information is an offence under the Bankruptcy Act and penalties apply on conviction. Your period of bankruptcy can be extended in certain circumstances.**

## Information and assistance

If you do not understand a particular question or require further information about bankruptcy or other alternatives, please contact AFSA on 1300 364 785. AFSA cannot give you advice on whether bankruptcy is suitable for your individual circumstances.

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 these forms is collected under, and for the purposes of, the Bankruptcy Act and for government reporting requirements.

1. A copy of these forms will be provided to the trustee of your estate, who will use the information in them to administer your estate.
2. The information you provide (except Part A of the statement of affairs) is available for public inspection.
3. The information may be used for the purpose of investigating offences committed under the Bankruptcy Act or other legislation.
4. Some of the information will be recorded on the National Personal Insolvency Index (NPII) which is a public record. It records personal information including the type of administration, your name (including previous names and aliases), your address, date of birth and occupation. Credit rating organisations have access to the NPII, therefore presenting a debtor's petition may affect your ability to obtain credit. The Inspector-General is also permitted to enter into arrangements to provide NPII information to other third parties.

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

Formal options to deal with unmanageable debt eg bankruptcy have serious consequences. It is important that any person entering a formal option under the Bankruptcy Act is fully aware of their obligations and how this decision will impact them.

If an applicant is unable to read, is not familiar with the English language or is unable to sign/complete the form due to a physical incapacity, another person may complete the form:

1. Where the applicant is blind, partially sighted, illiterate or partially literate – the person has read the forms and the prescribed information to the applicant
2. Where the applicant is not familiar with the English language – the person has interpreted information to the applicant in a language they both understand
3. Where 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 statement of affairs 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.**