

Debt & Bankruptcy FAQ

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About Us

O'Toole Lawyers helps South Australians navigate debt and bankruptcy issues with clear legal guidance. Whether you are struggling with personal debts, business insolvency, or facing bankruptcy proceedings, we provide practical advice and represent clients under South Australian law.

Frequently Asked Questions

1. What is bankruptcy?

Bankruptcy is a legal process where an individual who cannot pay their debts gives control of their finances to a trustee. It helps manage debts but has serious legal and financial consequences.

2. How do I declare bankruptcy?

You can apply online through the Australian Financial Security Authority (AFSA) or seek advice from a lawyer or accountant to ensure your application is correct and complete.

3. What debts are included in bankruptcy?

Most unsecured debts (credit cards, personal loans, and unpaid bills) are included. Secured debts like mortgages are handled differently, as are debts to the ATO in particular.

4. Can I keep my assets if I go bankrupt?

Some assets are protected (tools of trade, basic household items, and some superannuation), while others may be sold to pay creditors.

5. How long does bankruptcy last?

Standard bankruptcy lasts 3 years and 1 day, but it can be longer in certain circumstances. After discharge, most restrictions are lifted, but some records remain on credit reports.

6. What are my obligations during bankruptcy?

You must:

- Provide information to your trustee
- Make payments from surplus income
- Notify your trustee of changes in financial status

7. Can I be sued if I owe money but am not bankrupt?

Yes. Creditors can pursue legal action to recover debts, including court judgments, garnishee orders, or seizure of assets.

8. Can bankruptcy stop debt collection calls?

Yes. Once bankruptcy is declared, creditors must deal with your trustee and cannot contact you directly for the debts included in bankruptcy.

9. Are there alternatives to bankruptcy?

Yes. Options include:

- Debt agreements
- Personal insolvency agreements
- Negotiated repayment plans

10. Do I need a lawyer for debt or bankruptcy issues?

Legal advice is strongly recommended to understand your rights, obligations, and options, and to avoid mistakes that could make your situation worse.

Contact O'Toole Lawyers

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