



## Proof of Debt

Guidelines on completing this form are overleaf.

1. **Bankrupt/Debtor name/s**

<i>Family name</i>	<i>Given names</i>
<i>Family name</i>	<i>Given names</i>
<b>Trading name</b>	
<b>Administration No.</b>	
<b>Date of administration</b>	/ /

2. Bankrupt/Debtor/s liability     Separate     Joint     Joint & several

3. **Creditor name**

<b>Postal address</b>	
	<i>Post code</i>
<b>Creditor reference</b>	<i>Creditor ABN</i>
<b>Creditor contact</b>	
<i>Name</i>	
<i>Email</i>	<i>Phone</i>
	<i>Fax</i>

4. Do you hold any security?    No     Yes     Estimate value of security \$

Description of security property

5. Have you obtained a Judgment?    No     Yes     Judgment amount & costs \$

Was this a default Judgment?    No     Yes     Judgment number & court

6.

Date debt(s) incurred	Details of debt/description	GST see note 7	Total amount (incl of GST)
/ /			
	Less: Payments received in reduction of debts		
	Less: Estimated value of security		
	<b>Amount claimed</b>		<b>\$</b>

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

<i>Signature</i>	<i>Name</i>	<i>Date</i> / /
------------------	-------------	-----------------

**Note: Lodging a false proof of debt is an offence which is punishable by imprisonment for 3 years: S263(1)(d)**

Admin use only		Trustee Use Only			
Creditor ID		<b>Amount admitted in estate:</b>		Preferential	\$
Liability ID		1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	Ordinary
POD No.		Amount Rejected:	\$	Deferred	\$
SoA Amt.		Reason Rejected		<b>Total Admitted</b>	\$
Reg'd. in estate		Trustee signature		Date / /	
Date Reg'd.					

## Completing a Proof of Debt

### 1. When to lodge a Proof of Debt (POD)

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 proof of debt has been admitted by the trustee. Correct completion of Proofs of Debt 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 by the trustee and you fail to provide the Statutory Declaration, then the trustee can disregard your POD.

**Lodging a false proof of debt is an offence, which is punishable by imprisonment for 3 years: S263 (1)(d)**

### 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 from the itsa website [www.itsa.gov.au](http://www.itsa.gov.au), ITSA 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 accepted by creditors.
- 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 & 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 at Q2 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 answer Q4. A secured creditor can prove for all or part of his 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 at Q5. Costs awarded in a Judgment obtained prior to bankruptcy may be included.

### 7. Business/trade creditors

Disclose your ABN at Q3 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 at Q6

### 8. Other

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

General information about bankruptcies and other forms of personal insolvency administrations is available from ITSA. Visit [www.itsa.gov.au](http://www.itsa.gov.au) or call 1300 364 785