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There's more pain ahead for the debt-burdened. But, as **Jason Bryce** reports, there are ways to deal with the problem and new rules, too

Getting to grip with debts

WEIGHED down by debt? Don't panic. You're not alone. In the past year some 8000 Victorians became insolvent and, with interest rates on the rise, those numbers are expected to increase.

But, even when you are overwhelmed, there are ways to deal with the burden — and some are better than others. A few have significant pitfalls.

Of course, at the extreme you can declare yourself bankrupt. If your position is less fraught, you can negotiate a repayment plan with your creditors.

And then there are debt agreements, which allow creditors to be repaid part or most of the debt in a way that is affordable to you.

New laws that passed Federal Parliament a fortnight ago are designed to channel insolvent debtors away from formal bankruptcy and into debt agreements.

A debt agreement binds a debtor to a repayment plan and protects them from further action by creditors. They are popular with banks and credit card issuers because they deliver more money back to them — some 75 per cent of the money owed — than through a bankruptcy, which on average returns less than 2 per cent.

But they are not so popular with financial counsellors, who say that many debt agreements fail because they contain unrealistic repayment plans and many people who sign up to one end up declaring themselves bankrupt anyway — to escape their debt agreement.

The government is going to add to the debts of these people by slugging them with a new $200 fee from this October.

The fee must be paid to the government's insolvency registrar before an agreement can be approved. The fee is not refundable if the agreement is rejected by creditors.

Bizarrely, the insolvency registrar will accept credit card payments of the fee.

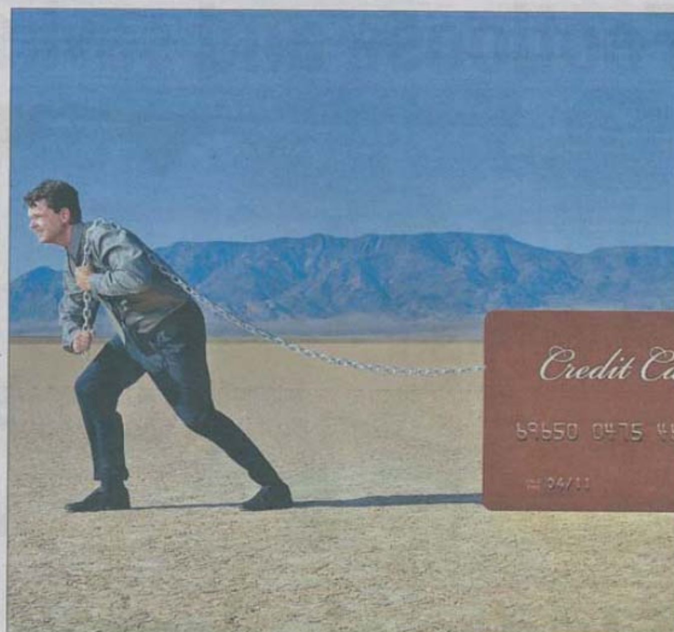
The government is also raising the fees it takes from the debt agreement repayments of insolvent debtors by more than 14 per cent, from 3.5 per cent to 4 per cent.

THE new fee slug has not been publicly announced but has been confirmed to *BusinessDaily* by the government's insolvency trustee.

An executive from a leading debt administration company said: "This new fee is totally outrageous and the idea that the government bankruptcy trustee will accept credit card payments from consumers already drowning in debt defies logic.

"There has been no consultation and no public announcement.

"It will hit those who are most unable to pay — the people who already can't pay their bills."



Dragging debt: new laws aim to steer the insolvent into agreements, not bankruptcy. Picture: GETTY IMAGES

When *BusinessDaily* asked about the fee this week, the federal Attorney-General Robert McClelland called it a "cost recovery measure".

"It is appropriate for users of these services to make some contribution to the cost of their provision as they are aimed at providing the opportunity for people to investigate their options and, where possible, reorganise their affairs to avoid bankruptcy," Mr McClelland said.

Responding to criticism that the new fees have not been publicised and that the government has introduced them without consultation, Mr McClelland said he would consult the industry before the fees take effect.

He said the government was providing extra funding of more than $12 million to improve services for those in financial distress.

The new bankruptcy laws pushed through parliament two weeks ago aim to channel insolvent consumers into debt agreements.

The government's push for debt agreements also has triggered criticism.

Roger Mendelson, chief executive of Prushka Fast Debt Recovery, said debt agreements may seem like a good idea but the hidden costs made them a last resort.

Mr Mendelson is no friend to struggling debtors. He is a debt collector who makes a living chasing down those who don't pay their bills.

"Debt agreements seem enticing, however they often add to an already large debt via hidden costs and a tough repayment schedule, which can make it more difficult for the debtor to repay their debt," he said.

Mr Mendelson said almost 90 per cent of people who have debt agreements fail to keep up with the repayments and the agreements fail.

"The result is that they are still left with the original debt and have incurred additional costs in setting it up.

'DEBT AGREEMENTS ... OFTEN ADD TO AN ALREADY LARGE DEBT VIA HIDDEN COSTS AND A TOUGH REPAYMENT SCHEDULE'

— Roger Mendelson, chief executive of Prushka Fast Debt Recovery

"The harm done by debt agreements often outweighs their good at a time when Australians' love affair with credit cards grows."

Richard Foster, CEO of the Financial and Consumer Rights Council of Victoria, agrees.

"If you are in that situation of not being able to pay your debts, depending on your circumstances you really should be looking at the option of bankruptcy, not a debt agreement," he said.

"Debt agreement administrators are making bucketloads of cash from highly indebted consumers when we say they really shouldn't be able to."

IN ADDITION to government fees, debt agreement administrators also collect big fees from their insolvent customers.

Set-up fees for debt agreement proposals range from $500 to more than $2000 and ongoing fees average around 20 per cent.

A debt agreement administrator manages the insolvent person's debts and negotiates a lower affordable repayment plan with creditors.

Mr Foster said switched-on consumers had the right to do all that themselves — for free.

"You can negotiate directly with your creditors or you can see a financial counsellor for free who can help you," he said.

"We say avoid debt agreements at all costs."

DROWNING IN DEBT

THE Bankruptcy Legislation Amendment Act introduces numerous key reforms, including:

INCREASING the minimum amount for which a creditor can petition for bankruptcy from $2000 to $5000;

INCREASING the time before a creditor can begin action to recover debts from seven to 21 days;

INCREASING the income, asset and debt thresholds to allow more people in financial distress to enter into voluntary debt agreements;

INTRODUCING a more efficient and transparent process for fixing and reviewing trustee remuneration;

STRENGTHENING the penalties for some offences, particularly those involving fraud;

ENHANCING powers for the Inspector-General in Bankruptcy to investigate possible offences.

DEBT agreements are an alternative to full bankruptcy for people who:

EARN an after-tax income of less than $66,284.40;

HAVE unsecured debts of less than $88,379.20;

OWN property that would be divisible among creditors if the debtor were bankrupt valued at less than $88,379.20.

Source: Attorney-General Robert McClelland, ITSA