

11 July 2010

## **Extra \$200 fee on debt agreements**

Jason Bryce

An alternative to full bankruptcy - used by thousands of Australians each year - will cost more, writes Jason Bryce

THE Australian Government will slug insolvent consumers who cannot pay their credit card debts and other loans a non-refundable \$200 fee from October 1 to accept their debt agreement proposals.

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

A debt agreement is an alternative to full bankruptcy used by thousands of ordinary Australians each year who find themselves overloaded with credit card, store card and personal debts.

The decision to impose the fee on applicants for debt agreements is believed to be a budget measure, although it has not been publicised by the Insolvency and Trustee Service of Australia or the Commonwealth Attorney-General's department.

The decision to impose the new \$200 fee and raise the continuing fees was confirmed to The Sunday Mail last week by ITSA.

The fee is non-refundable if the debtor's application for an agreement (which often involves part payment of debts) is rejected by creditors.

Bankruptcy expert Roger Mendelson, chief executive of Prushka Fast Debt Recovery, said a debt agreement might seem like a good idea but the hidden costs made it a last resort for smart consumers.

"Debt agreements seem enticing as the agreement often involves paying as low as 50 in the dollar," Mr Mendelson said.

"However, debt agreements 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.

"Also, there is an ongoing stigma with debt agreements as it is an arrangement under The Bankruptcy Act.

"Breach of an agreement constitutes an act of bankruptcy."

Mr Mendelson said almost 90 per cent of people he saw who had debt agreements failed to keep up with the repayments and the agreements failed.

"The result is that they are still left with the original debt and have incurred additional costs in setting it up. The harm done by debt agreements often outweighs their good at a time when Australians' love affair with credit cards grows."

In the past 15 years a small industry has emerged to promote debt agreements among insolvent consumers, often in concert with debt consolidation loans.

This industry was born in Queensland in the 1990s when reforms to the Bankruptcy Act allowed debtors to appoint someone to manage their debts and repayments for them. From that law reform sprang hundreds of companies who marketed debt agreements as a kind of debt consolidation option.

The debt agreement administrator contacts all creditors and negotiates a repayment plan that the debtor can afford. Many debt agreements propose to repay between 50 and 90 in every dollar the debtor owes.

If the creditors accept the proposal, the administrator collects one repayment from the debtor each week or month and distributes dividends from it to the various creditors.

Howard government reforms cleaned up many of the cowboys of the debt agreement industry.

However, now further reforms to the Bankruptcy Act will favour debt agreements over personal bankruptcies for indebted consumers.

Commonwealth Attorney-General Robert McLelland said last year that debt agreements were better than bankruptcy because creditors received 76 in the dollar from the average debt agreement, while less than 2 was received from the average bankrupt.

In addition to the government fees, debt agreement administrators also collect fees from their highly indebted customers.

Set-up fees for debt agreement proposals range from \$500 to about \$1900 on average, according to the Government's insolvency trustee.

There are also continuing administration charges for debt agreements, on top of the Government's 4 per cent.

Fees charged by administrators range from 18 per cent to 30 per cent of repayments, although the majority of registered administrators charge about 20 per cent.

There were more than 2000 debt agreements signed in the three months to last March, up 6 per cent on the December 2009 quarter.