

What happens to my debts?

What you need to know

On the date you become bankrupt all debts except those excluded by law will be 'provable' debts in bankruptcy. These creditors can submit a claim for the debt in your bankruptcy.

Creditors holding security over assets may still repossess and sell assets on hire purchase or subject to security.

Student loans are provable in bankruptcy.

Unsecured and secured debt

A **secured debt** is any debt where the creditor has the right to repossess a previously specified item of property if they are not paid. For example, a hire purchase agreement for the purchase of a motor vehicle. Failure to continue to make the monthly payments to the secured creditor (usually a finance company) will lead to a default under the hire purchase agreement which then entitles the secured creditor to take steps to repossess that motor vehicle. The motor vehicle is repossessed and sold by the secured creditor to get their money back.

Equally, a mortgage is a secured debt. The bank that provides the money to purchase a house takes a security called a mortgage over the property purchased. If there is a failure to pay the mortgage, the bank or mortgagee can take steps to sell the house to get their money. Secured property is often referred to as 'collateral'.

An **unsecured debt** is when there is no security (or collateral) held by the person or company that provides the money to buy goods or services. Unsecured debts can include credit cards, rent, power accounts, overdrafts or unpaid taxes.

You need to know which debts are secured and which are unsecured as they are treated differently upon entry to bankruptcy, a No Asset Procedure or a Summary Instalment Order.

Note

If you wish to keep the secured goods you are paying off, you will need to contact the creditor to make an arrangement to continue with the required repayments. ITS will contact the creditor about your insolvency, but not about whether or not you'll continue with the repayments.

FAQs

[What happens to my debts after I'm discharged from bankruptcy?](#)

[What debts am I still liable for?](#)

[Can I still get credit?](#)

[How do creditors claim their debts?](#)

[Can creditors repossess goods?](#)

[Do I have to keep paying my power and phone?](#)

[What about my rent?](#)

What happens to my debts after I am discharged from bankruptcy?

Discharge from bankruptcy releases you from all provable debts which existed at the date of bankruptcy. These debts no longer exist and you cannot be pursued by creditors for payment.

Contingent debts are also provable in bankruptcy and you are also released from these upon your discharge. Contingent debts are debts that are not immediately payable but which become payable on occurrence of an event such as default. For example, a guarantor becomes liable for his guarantee only if the debt that is guaranteed does not get paid by the debtor. The guaranteed debt is provable or included in your bankruptcy. If you have provided a guarantee to a creditor on another person's behalf before the date of your entry to bankruptcy, then it is a provable debt that is included in your bankruptcy.

If a creditor seeks to recover money for a debt included in your bankruptcy contact the Insolvency and Trustee Service.

What debts am I still liable for?

Bankruptcy does not cover all debts. You remain personally responsible for:

- Fines
- Reparation ordered by a Court
- Maintenance and child support
- Advances and overpayments from WINZ
- Debts incurred after date of bankruptcy.

Can I still get credit?

It is an offence to incur credit of \$NZ1,000 or more without disclosing you are bankrupt. Provide this information in writing to avoid any misunderstanding. You may get credit if, after disclosing your bankruptcy, the creditor chooses to extend credit.

[Top](#)

How do creditors claim their debts?

Creditors must complete a claim form and supply documentary evidence of the debt. The Insolvency and Trustee Service website will provide access to the list of creditors who have filed claims. If you dispute any debt, contact your Insolvency Officer.

Can creditors repossess goods?

Creditors holding security over assets may still repossess and sell assets on hire purchase or subject to security.

The Official Assignee may require you to voluntarily surrender assets or enter into a new contract to continue with the purchase.

Where the value of the asset is greater than the amount owing, the Official Assignee has discretion to sell the item, repay the debt, and apply any surplus towards your creditors.

Do I have to keep paying my power and phone?

Any electricity or telephone accounts overdue at date of bankruptcy are provable debts. Electricity or telephone companies are not prevented from discontinuing services so you may choose to pay the debt. All debts incurred after date of bankruptcy are your responsibility.

What about my rent?

Any overdue rent at date of bankruptcy is a provable debt. Landlords are not prevented from evicting you from a property so you may choose to pay the debt. All debts incurred after date of bankruptcy are your responsibility.