



Information for people who wish to be employed by a relative or an entity controlled by a relative while they are bankrupt

If you wish to apply for consent to be employed by a relative or an entity controlled by a relative, you must file an affidavit under Regulation 10 Insolvency (Personal Insolvency) Regulations 2007. An affidavit is a written statement confirmed by a lawyer or Justice of the Peace. You may wish to seek professional advice to complete the affidavit, which must include:

- whether the business is a new business
- what capital you or anyone else will put into the business
- what experience the relative has and what their input will be
- what provisions have been made to meet all taxes and regulatory requirements
- who the financial supervisor is and what will be the role and powers of that person
- any other information the Official Assignee may need

The Official Assignee needs to make an informed decision, so please include the following information in your affidavit:

Financial matters

- how you became bankrupt
- whether you have been bankrupt before
- the reason for your application
- what money or assets of your own you are contributing to the business
- whether your duties will include raising credit on behalf of the business
- whether you will have authority on the business bank account
- whether you will have a business credit card
- details of the business bank accounts
- your anticipated income
- your pre bankruptcy employment including role, duties, responsibilities and income
- whether or not contributions to your current bankruptcy will be available
- how an approval will benefit creditors in the bankruptcy

Practical matters

- your present employment status
- a description of your duties and responsibilities in the business
- the name(s) of the business owner(s)
- your relationship to the business owner(s)
- the name and nature of the business
- what plant or equipment you will be providing
- whether other staff are employed and whether they will report to you
- where the business will operate from, that is, home or leased premises – for leased premises, provide full details of the proposed lease
- any other information that will assist the Official Assignee

You will be required to provide a copy of your employment contract.

Letter from your Relative

You will also be required to provide a letter from the relative stating:

- their experience and relevant expertise in operating this business or any other business
- their usual occupation
- whether they are employed elsewhere, either part-time or full-time
- whether you will be paid the market rate for your services, and if not, why not
- who will oversee the financial aspects of the business, including book keeping, tax obligations and preparation of financial statements
- that they have managerial control over the business and its assets
- that they have and properly maintain, an effective and reasonable Health and Safety plan that comprehensively covers all activities undertaken

The relative will need to satisfy the Official Assignee that your involvement is no more than just an employee. They need to state what is proposed.

- the level of control involved
- your giving of advice to management and participation in decision making processes
- executing or implementing decisions, beyond merely carrying out instructions of management

What happens now

If consent is given, it will be given in writing. You must not be employed by a relative or an entity controlled by a relative until you receive the Official Assignee's consent in writing.

Application for Consent to be Employed by a Relative / Entity Controlled by a Relative

I, _____ (full name) of

_____ (full postal address)

_____ (contact phone number) **swear**

that the information and statements contained in this application are true and correct:

1. I was adjudicated bankrupt on _____

2. I seek the Consent of the Official Assignee for leave to be employed by a relative /entity controlled by a relative.

3. I wish to be employed by a relative / entity controlled by a relative for the following reasons:

4. The name of the business is:

5. The name(s) of the business owner(s) **is / are**;

6. My relationship(s) to the business owner(s) **is / are**:

7. How long the business has been operating:

8. I have / have not previously managed this business.

9. The capital and assets that I have / will put into the business are:

10. My duties, responsibilities and powers in the business will be:

11. My duties **will / will not** include raising credit on behalf of the business.

12. I **will / will not** have authority on the business bank account.

13. My anticipated income is:

14. Other benefits I will receive:

15. My pre bankruptcy employment including my role, duties, responsibilities and income was:

16. My bankruptcy **resulted from a business failure / was not related to a business failure.**

17. The causes of my bankruptcy were:

18. I **have / have not** been bankrupt before.

19. I **have / have not** been convicted of fraud.

20. Contributions to my current bankruptcy **will / will not** be available.

21. The benefit to my creditors in allowing this application is:

22. I also supply the following information to support this application:

- employment contract
- job description
- letter from relative
- letter from financial supervisor
- other

Signed _____

Sworn at _____ on _____ 20 _____

Before me _____

Name _____

- Solicitor of the High Court of New Zealand
- Justice of the Peace