



## Personal insolvency agreement (PIA) overview

### What you need to know about PIAs

PIAs can be a flexible way for you to come to an agreement with your creditors to settle debts without becoming bankrupt.

A PIA is a legally binding arrangement between you and your creditors whereby you offer to pay them in full or in part by instalments or a lump sum. Your offer must be accepted by a special resolution of your creditors. Unlike a [debt agreement](#), there are no debt, asset or income limits to be eligible to propose a PIA.

Acceptance requires a "yes" vote from a majority of creditors who represent at least 75% of the dollar value of the voting creditor's debts (referred to as a "special resolution").

### Who can propose a PIA?

An individual can propose a personal insolvency agreement when certain conditions are met:

- you must be [insolvent](#) to propose a PIA
- you must be present in Australia or otherwise have an Australian connection (for example, you ordinarily live in Australia or are involved with a business operating in Australia)
- you must not have proposed another PIA in the previous six months (unless you have permission from the court).

Unlike other formal means of dealing with unmanageable debts, there are no income, asset or debt limits involved in personal insolvency agreements.

### How does it work?

You first appoint a controlling trustee to take control of your property and put forward a proposal to creditors.

Only a registered trustee, the [Official Trustee](#) or a suitably qualified solicitor can act as a controlling trustee. The controlling trustee examines the proposal, makes enquiries into your financial affairs and reports to creditors. The report will advise creditors of the amount they can expect from the proposal compared to the amount they could expect if you become bankrupt, and make a recommendation whether it is in the creditors' interest to accept the proposal as opposed to you becoming bankrupt.

The creditors are entitled to ask questions of the controlling trustee and share information with them about your financial affairs.

A creditors' meeting is held within 25 working days of the controlling trustee's appointment (30 working days if appointed in December) at a time and location convenient to creditors. This meeting is advertised on our [website](#). If unable to attend, a creditor can be represented by a proxy or attorney, or participate by telephone if facilities are available.

You must attend the meeting unless excused by the trustee. The creditors may ask you questions about your financial affairs and your offer before deciding how to vote. At the creditors' meeting, creditors consider the proposal.

**If the proposal is accepted**, the creditors are bound by the terms of the agreement. Secured creditors' rights in relation to dealing with their security are not affected by a PIA. A trustee (who may be different from the controlling trustee but must be either a registered trustee or the Official Trustee) is appointed to administer the agreement.

**If the proposal is rejected**, creditors will either vote in favour of you becoming bankrupt (you are not obliged to make yourself bankrupt) or leave it up to you to decide how to resolve your financial difficulties.

**If the proposal is rejected or lapses**, you cannot appoint another controlling trustee for six months without permission of the court.

### What are the consequences of proposing and entering into a PIA?

When you appoint a controlling trustee:

- you commit an ["act of bankruptcy"](#). A [creditor](#) can use this to apply to court to make you bankrupt if the attempt to set up a PIA fails
- any existing creditor's petition to make you bankrupt cannot proceed until the meeting of creditors is held to consider the proposal.

The appointment of a controlling trustee for a PIA:

- automatically disqualifies you from managing a corporation until the terms of the PIA have been complied with

- prohibits you from dealing with your property without the consent of the controlling trustee
- affects your credit record and will appear on credit reporting agencies' records for seven years
- the fact that you have signed a controlling trustee authority is recorded on the [National Personal Insolvency Index](#) forever
- requires you to assist your controlling trustee (including answering questions and providing books and records if requested).

For a comparison of the consequences of bankruptcy, debt agreements and personal insolvency agreements, see the [insolvency options table](#).

## Varying, terminating or setting aside a PIA

If you need to vary the terms of the PIA, you can make a written request to your trustee to commence this process. The trustee sends a notice of the proposed variation to creditors and, if none object in writing, the terms will be varied. If a creditor objects, a creditors' meeting can be called to consider the proposed variation.

Creditors, with your written consent, can vary the terms of an agreement by passing a special resolution. An agreement can be terminated by the occurrence of an event specified in the agreement as causing termination or by a resolution of the creditors where the trustee is satisfied that you have not complied with your obligations. The court can also set aside or terminate an agreement in certain circumstances.

## Fees and charges associated with entering into a PIA

- there is a fee payable to us when lodging a controlling trustee authority form. See [fees and charges](#)
- a controlling trustee will charge a fee for examining your PIA proposal, investigating your financial affairs, preparing a report to creditors and holding the creditors' meeting
- the trustee of the PIA will also charge a fee for administering the PIA
- funds realised by a trustee in an administration are subject to [realisations charge](#) which is paid by the trustee directly to the government. Any interest earned on funds realised by the trustee is also payable to the government. See the [realisations charge details](#) page to find out more.

If you have executed a controlling trustee authority or a PIA and think the fees claimed by the controlling or PIA trustees are too high or otherwise unreasonable, you may request that the Inspector-General in Bankruptcy reviews the trustee's fees. Note that certain conditions must be met before the Inspector-General will conduct a review. For more information see [Inspector-General Practice Statement 16](#).

## How to proceed

- If you have considered your options and have decided that a PIA is appropriate, you should make contact with a [registered trustee \(RT\)](#) who will be able to assist you to decide on the offer you want to make to creditors.
- You may then be asked to sign a controlling trustee authority form. This authority gives control of your property to the RT and authorises the RT to call a meeting of your creditors. The RT becomes the controlling trustee.
- You will be asked to complete a [Statement of Affairs](#) which outlines your assets, income and liabilities as well as other details.
- Your controlling trustee will investigate your financial affairs and call a meeting of your creditors to vote on your offer.
- Should your creditors accept the offer, you and the controlling trustee will complete the formal documentation that records the terms of the agreement.
- Once the document is signed, the PIA is in place. Generally, the RT who was the controlling trustee will become trustee of the PIA.
- The trustee of the PIA will then carry out the terms in the PIA. This may involve selling your assets or collecting payments from you or others, and making payments to your creditors.

## Frequently asked questions

Read the [PIA frequently asked questions](#).

## Further information

It is important to note that we can provide you with information about the options available to you, but cannot provide you with advice regarding which option you should pursue. If you would like advice, you could contact your accountant or solicitor or a registered trustee. You may also wish to discuss your affairs with a financial counsellor, who may be able to:

- speak to your creditors on your behalf
- advise you of your rights under the Consumer Credit Code
- settle disputes.

You can also visit the [MoneySmart](#) website for help with budgeting.

As a registered trustee will need to be involved in your PIA, you may find it beneficial to discuss the procedure with several different RTs and compare their costs (different RTs may charge different fees).