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(II) Discharge Add to

The paragraph below is current to **21 November 2011** **1**

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To update legislation see [ACL Legislation](#) **2**

For information on (CTH), (NSW), (QLD) and (VIC) Acts cited in this paragraph see [Statutes Annotations](#)

[50-1550] Extension of bankruptcy — objections to discharge At any time before the bankrupt is automatically discharged from bankruptcy,¹ the trustee in bankruptcy may file with the Official Receiver, or the Official Receiver on his or her own initiative may file, a written notice of objection to the discharge.² The trustee must file a notice of objection to the discharge if the trustee believes that this is the only way to make the bankrupt discharge a duty that the bankrupt has not discharged.³ The notice must set out the ground of objection, the evidence upon which it is based and, in some cases, reasons for the objection.⁴ Reasons for objections are required if the objections are based on certain grounds.⁵ As soon as practicable after filing the objection, the trustee or Official Receiver must give a copy of the notice to the bankrupt and advise the bankrupt of his or her right to a review of the decision to object by the Inspector-General and Administrative Appeals Tribunal. A copy of the notice must also be given to either the trustee or Official Receiver, depending on who filed the objection.⁶ An objection, or a ground of objection, may be cancelled or withdrawn by the trustee or Official Receiver who filed it.⁷

An objection takes effect from the beginning of the day on which details of the notice of objection are entered in the National Personal Insolvency Index.⁸ Its effect is to extend the period of bankruptcy to eight years from the date of filing of the statement of affairs⁹ in the case of an objection based on certain specified grounds¹⁰ and to five years in other cases.¹¹

Notes

1 This period cannot be extended: *Donnelly v Edelsten* (1992) 34 FCR 556; 109 ALR 651; BC9203373. As to automatic discharge see [50-1535].

2 (CTH) Bankruptcy Act 1966 s 149B. **4**

3 *Ibid* s 149B(2). **5**

4 *Ibid* s 149C(1). See *Re Hall* (1994) 14 ACSR 488; BC9406585, Fed C of A. **5**

5 These grounds are grounds (3), (6), (7), (8), (9), (10), (11), (12), (14), (16), and (19) as set out in [50-1555]. **6**

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The screenshot shows the LexisNexis search results page for 'Discharge'. The page has a navigation bar at the top with 'Search', 'Explore by Topic', 'Practice Areas', 'Source Directory', and 'Research Manager'. Below the navigation bar, there is a 'Table of Contents' section on the left with a list of items including '(A) Subsequent Bankruptcies', '(B) Annulment and Discharge (1)', '(I) Annulment', '(II) Discharge (1)', '(9) ARRANGEMENTS OUTSIDE BANKRUPTCY', '(10) OFFENCES', and '(11) CROSS-BORDER INSOLVENCY'. The main text area on the right contains the following text: 'The paragraph below is current to 21 November 2011. For new cases see ACL Reporter. To update legislation see ACL Legislation. For information on (CTH), (NSW), (QLD) and (VIC) Acts cited in this paragraph see Statutes Annotations. [50-1550] Extension of bankruptcy – objections to discharge At any time before the bankrupt is automatically discharged from bankruptcy, the trustee in bankruptcy may file with the Official Receiver, or the Official Receiver on his or her own initiative may file, a written notice of objection to the discharge. The trustee must file a notice of objection to the discharge if the trustee believes that this is the only way to make the bankrupt discharge a duty that the bankrupt has not discharged. The notice must set out the ground of objection, the evidence upon which it is based and, in some cases, reasons for the objection. Reasons for objections are required if the objections are based on certain grounds. As soon as practicable after filing the objection, the trustee or Official Receiver must give a copy of the notice to the bankrupt and advise the bankrupt of his or her right to a review of the decision to object by the Inspector-General and Administrative Appeals Tribunal. A copy of the notice must also be given to either the trustee or Official Receiver, depending on who filed the objection. An objection, or a ground of objection, may be cancelled or withdrawn by the trustee or Official Receiver who filed it. An objection takes effect from the beginning of the day on which details of the notice of objection are entered in the National Personal Insolvency Index. Its effect is to extend the period of bankruptcy to eight years from the date of filing of the statement of affairs in the case of an objection based on certain specified grounds and to five years in other cases. Notes: 1 This period cannot be extended: Donnelly v Edelstein (1992) 94 FCR 556; 109 ALR 651; BC9203373. As to automatic discharge see [50-1535]. 2 (CTH) Bankruptcy Act 1966 s 149B. 3 Ibid s 149B(2).'

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