

FORM 5

APPLICATION

(Order 4 rule 1)

(State briefly the nature of the subject of the application or cross-claim and the legislative basis of the court's jurisdiction to hear it and grant the relief sought. The required statement is not taken to be part of the pleading.)

A DETAILS OF CLAIM

On the grounds stated in the accompanying affidavit or statement of claim (or, if applicable, Claim of unlawful termination of employment in accordance with Form 5A, or Claim under the Human Rights and Equal Opportunity Commission Act 1986 alleging unlawful discrimination in accordance with Form 167), the applicant claims:

1. *(Specify in numbered paragraphs all final relief sought.)*
- 2.
- 3.

B CLAIM FOR INTERLOCUTORY RELIEF

(Complete this section if you wish to claim interlocutory relief)

AND the applicant claims by way of interlocutory relief:

1. *(Specify in numbered paragraphs all interlocutory relief sought.)*
- 2.
- 3.

Date: *eg, 7 May 19*

(signed, applicant or applicant's solicitor)

C NOTICE TO RESPONDENT

(Complete this section if there is a respondent)

TO the respondent of *(insert address)*:

This application has been set down for the time and place stated below. If you or a legal practitioner representing you do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard;
- (b) directions may be given for the further conduct of the proceeding;
- (c) any application for interlocutory relief may be heard.

Before any attendance at Court, you must file an appearance in the Registry.

Time and date for hearing: *(to be entered by Registry unless fixed by Court)*

Place: *(address of Court)*

D ABRIDGMENT OF SERVICE

(Complete this section if the time for service has been abridged)

The time by which this application is to be served has been abridged by order made on *(insert date)* to *(insert time and date)*.

Date: *eg, 7 May 19*

(signed, Registrar)

E FILING AND SERVICE

This application is filed by *(insert name)* for *(insert name)* whose address for service is *(insert address)*.

The applicant's address is *(if the applicant is an individual, specify place of residence or business; if the applicant is a corporation, specify principal place of business)*.

It is not intended to serve this application on any person.

OR

It is intended to serve this application on each person listed below:

(insert name of each person on whom application is to be served)

Version 4

[Form 5 subst SR 174 of 1997 r 4; am SR 224 of 1998 r 18; SR 222 of 2002 r 3 and Sch 1, opn 12 Sep 2002; SR 206 of 2003 r 3 and Sch 1, opn 11 Aug 2003; SR 407 of 2004 reg 3 and Sch 1, opn 23 Dec 2004]

FORM 150

CREDITOR'S PETITION

(Order 77, subrule 16(1))

The applicant creditor *(name and address of applicant)* applies to the Court for a sequestration order under section 43 of the Bankruptcy Act 1966 against the estate of *(name, address and occupation of respondent debtor)*.

1. The respondent debtor owes the applicant creditor the amount of (\$ *amount*) for *(statement of reason for and details of the debt)*.

2. EITHER

The applicant creditor does not hold security over the property of the respondent debtor.

OR

The applicant creditor holds security over the property of the respondent debtor to the value of (\$ *amount*) and consisting of *(statement of particulars of security)*, and:

EITHER

(a) is willing to surrender this security for the benefit of creditors generally if a sequestration order is made against the respondent debtor;

OR

(b) the value of the property is (\$ *amount*), which leaves an unsecured debt of (\$ *amount*).

[NOTE: If there is more than one applicant creditor, the form may be appropriately amended.]

3. At the time when the act of bankruptcy was committed, the respondent debtor:

- * was personally present in Australia
- * was ordinarily resident in Australia
- * had a dwelling house or place of business in Australia
- * was carrying on business in Australia either personally or by an agent or manager
- * was a member of a firm or partnership carrying on business in Australia by means of partners or agent or manager.

4. The following act of bankruptcy was committed by the respondent debtor within 6 months before the presentation of this petition:

(Give full details of the act of bankruptcy mentioned in section 40 of the Bankruptcy Act 1966 on which you are relying, including details of any judgment on which a bankruptcy notice is founded.)

5. The applicant creditor provides the following information, to the extent it is known to the applicant creditor, for use by the Insolvency and Trustee Service Australia:

- (a) any alias used by the respondent debtor;
- (b) the date of birth of the respondent debtor;
- (c) the business name of the respondent debtor;
- (d) the business address of the respondent debtor.

Note Completion of paragraph 5 is optional.

Date: eg 7 May 19

(signed, petitioner or solicitor for petitioner)

To: *(name of respondent debtor)*
(address)

This petition has been set down for hearing by the Court at the time, date and place specified below. If there is no appearance by you or a legal practitioner representing you at that time, the petition may be dealt with in your absence and a sequestration order made against you.

If you wish to appear at the hearing, you must file and serve a notice of appearance in accordance with Order 9 of the Federal Court Rules.

If you wish to appear at the hearing and oppose this petition, you must:

- (a) enter an appearance and file a notice of intention to oppose the petition, in accordance with Form 149, and an affidavit supporting the grounds; and
- (b) serve a copy of each document on the creditor at the address for service stated below not less than 3 days before the date for the hearing of this petition stated below; and
- (c) attend at the Court on the date for the hearing stated below.

Time and date for hearing: *(to be entered by Registry)*

Place: *(Address of Court)*

Date: eg 7 May 19

(signed, Registrar)

This petition is filed by *(name of solicitor for petitioner)* for *(name of petitioner)*.

The petitioner's address for service is: *(address for service)*.

** Omit if inapplicable*

Note A creditor is required to give a copy of this petition to the Official Receiver within 3 working days of presentation: see subregulation 4.05(1) of the Bankruptcy Regulations 1996.

Version 3

[Form 150 inst SR 174 of 1997 r 5; am SR 201 of 2001 r 3 and Sch 1, opn 27 July 2001; SR 38 of 2004 r 3 and Sch 1, opn 23 Mar 2004; SR 407 of 2004 reg 3 and Sch 1, opn 23 Dec 2004]

FORM 157

CREDITOR'S PETITION UNDER SECTION 244 OF THE BANKRUPTCY ACT 1966 FOR THE ADMINISTRATION OF A DECEASED PERSON'S ESTATE

(Order 77, subrule 59(2))

The applicant creditor *(name and address of creditor)* applies to the Court for an order of administration in bankruptcy of the estate of the late *(name of deceased debtor)* who died on *(date of death)*.

1. The estate of the deceased debtor owes the applicant creditor the amount of *($\$ amount$)* for *(statement of reason for the debt)*. This debt is a liquidated sum payable immediately or at a certain future time.

2. EITHER

The applicant creditor does not hold security over the property of the deceased debtor.

OR

The applicant creditor holds security over the property of the deceased debtor to the value of *($\$ amount$)* and consisting of *(statement of particulars of security)*, and:

EITHER

- (a) is willing to surrender this security for the benefit of creditors generally if a sequestration order for administration of the estate in bankruptcy is made;

OR

- (b) the value of the property is *($\$ amount$)*, which leaves an unsecured debt of *($\$ amount$)*.

[NOTE: If there is more than one creditor, the form may be appropriately amended.]

3. At the time of the debtor's death, the debtor:

- * was personally present in Australia
- * was ordinarily resident in Australia
- * had a dwelling house or place of business in Australia
- * was carrying on business in Australia either personally or by an agent or manager
- * was a member of a firm or partnership carrying on business in Australia by means of partners or agent or manager.

4. (Also state any details of the status of any authorisation to administer the deceased person's estate.)

Date: eg 7 May 19

(signed, petitioner or solicitor for petitioner)

To: (legal personal representative of the deceased debtor or other person as directed by the Court under subsection 244(9) of the Bankruptcy Act 1966)

(address)

This petition has been set down for hearing by the Court at the time and place stated below. If there is no appearance by you or a legal practitioner representing you at that time, the petition may be dealt with in your absence and a sequestration order made against the estate of the deceased debtor.

If you wish to appear at the hearing, you must file and serve a notice of appearance in accordance with Order 9 of the Federal Court Rules.

If you wish to appear at the hearing and oppose this petition, you must

- (a) enter an appearance and file a notice of intention to oppose the petition, in accordance with Form 149, and an affidavit supporting the grounds; and
- (b) serve a copy of each document on the creditor at the address for service stated below not less than 3 days before the date for the hearing of this petition stated below; and
- (c) attend at the Court on the date for the hearing stated below.

Time and date for hearing: (to be entered by Registry)

Place: (address of Court)

Date: eg 7 May 19

(signed, Registrar)

This petition is filed by *(name of petitioner)*(solicitor for the petitioner) on behalf of (name of petitioner).

The petitioner's address for service is: (address for service).

* Omit if inapplicable

Version 2

[Form 157 insrt SR 174 of 1997 r 5; am SR 407 of 2004 reg 3 and Sch 1, opn 23 Dec 2004]