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watch out

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Watchout If A Debt Agreement Fails

For persons experiencing extreme financial problems, the Bankruptcy Act facilitates a number of alternative administrations for resolution of financial problems. Two of the alternatives are;

1. Debt Agreements, and
2. Bankruptcy

Bankruptcy lasts for 3 years with automatic discharge after 3 years.

A Debt Agreement can last as long as is agreed by the debtor and creditors. However, the debtor will not be released from his or her liabilities until the Debt Agreement has been successfully completed.

Care must be taken when a person enters into a Debt Agreement that lasts for a period of time. If the Debt Agreement fails it may adversely affect the debtor from a personal and monetary perspective. For example, when a person enters into a Debt Agreement to make payments out of future income, some of the areas of concern would be;

- 1) If the agreed monthly repayment amount is too high the Debt Agreement will have an adverse impact on other areas of the debtor's life. For example relationship breakdown, difficulties with children, depression etc.
- 2) If the repayment arrangement can't be complied with, then the Debt Agreement will fail and the person's financial problems may be worse than they were before the Debt Agreement was entered into for the following reasons;
 - a) The cost of administering the Debt Agreement will have been incurred, and
 - b) Interest that accrued during the period of the Debt Agreement will be brought to account when the Debt Agreement is terminated, and
 - c) Creditors would be expected to be agitated by failure of the Debt Agreement and the continuance of non payment.
- 3) If the Debt Agreement fails and the debtor then becomes bankrupt, it will have taken significantly longer for the debtor's financial problems to be resolved than if the debtor had become bankrupt in the first place.

When considering options for resolution of financial problems the debtor needs to ensure that;

- a) The financial problem will be resolved by whatever course of action is decided upon, and
- b) The financial problem will be resolved, with a view to limiting the negative impact on the personal life of the debtor and his/her family.

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