

**INSOLVENCY, RESTRUCTURING AND DISSOLUTION ACT 2018
(ACT 40 OF 2018)**

**INSOLVENCY, RESTRUCTURING AND DISSOLUTION
(PERSONAL INSOLVENCY) RULES 2020**

(Title)

**AFFIDAVIT IN SUPPORT OF
CREDITOR'S BANKRUPTCY APPLICATION**

I/We _____, of _____ do make oath (or affirm) and say as follows:

1. *[explanation as to how rule 75 of the Insolvency, Restructuring and Dissolution (Personal Insolvency) Rules 2020 is satisfied]*.

2. The defendant is justly and truly indebted to me/us in the aggregate sum of \$_____ *[exact sum as of date of bankruptcy application]*, full particulars of which are set out in the annexure to this application which is marked ____ *[The annexure shall be strictly in accordance with rule 71 of the Insolvency, Restructuring and Dissolution (Personal Insolvency) Rules 2020 and include particulars of assignment of debt, if any]*.

3. The abovementioned debt is for a liquidated sum payable immediately and the defendant appears unable to pay it.

4. On _____, a statutory demand was served on the defendant by _____ *[manner of service]* in respect of the abovementioned debt *during the prescribed period under the COVID-19 (Temporary Measures) Act 2020. **21 days referred to in section 312(a)(i) of the Insolvency, Restructuring and Dissolution Act 2018/6 months referred to in section 312(a)(i) of the Insolvency, Restructuring as modified by section 21(1)(e) of the COVID-19 (Temporary Measures) Act 2020 have lapsed since the service of the demand and to the best of my/our knowledge and belief, the demand has neither been complied with nor set aside in accordance with the *Insolvency, Restructuring and Dissolution (Personal Insolvency) Rules 2020* and no application to set it aside is outstanding.

*Delete these words if they do not apply.

**Delete accordingly. Please refer to section 312(a)(i) of the Insolvency, Restructuring and Dissolution Act 2018 as modified by section 21(1)(e) of the COVID-19 (Temporary Measures) Act 2020

OR

4. On _____, a statutory demand was served on the defendant by _____ [manner of service] in respect of the abovementioned debt *during the prescribed period under the COVID-19 (Temporary Measures) Act 2020. **21 days referred to in section 312(a)(i) of the Insolvency, Restructuring and Dissolution Act 2018/6 months referred to in section 312(a)(i) of the Insolvency, Restructuring as modified by section 21(1)(e) of the COVID-19 (Temporary Measures) Act 2020 have not lapsed since the service of the demand and to the best of my/our knowledge and belief, the demand has neither been complied with nor set aside in accordance with the *Insolvency, Restructuring and Dissolution (Personal Insolvency) Rules 2020* and no application to set it aside is outstanding. I/We believe that there is a serious possibility that the debtor's property, or the value of all or any of the debtor's property, will be significantly diminished after the service of the statutory demand and before the end of the period of *21 days referred to in section 312(a) of the *Insolvency, Restructuring and Dissolution Act 2018/6 months referred to in section 312(a) of the Insolvency, Restructuring and Dissolution Act 2018 as modified by section 21(1)(e) of the COVID-19 (Temporary Measures) Act 2020*. [further explanation as to how section 314 of the *Insolvency, Restructuring and Dissolution Act 2018* is satisfied].

*Delete these words if they do not apply.

**Delete accordingly. Please refer to section 312(a)(i) of the *Insolvency, Restructuring and Dissolution Act 2018* as modified by section 21(1)(e) of the *COVID-19 (Temporary Measures) Act 2020*

OR

4. On _____, a certificate of inapplicability under section 299 of the *Insolvency, Restructuring and Dissolution Act 2018* was issued by the Official Assignee against the defendant, and to the best of my/our knowledge and belief, the defendant has not disputed the issuance of the certificate.

OR

4. On _____, a certificate of failure under section 300 of the *Insolvency, Restructuring and Dissolution Act 2018* was issued by the Official Assignee against the defendant, and to the best of my/our knowledge and belief, the defendant has not disputed the issuance of the certificate.

OR

4. [Give particular of other grounds relied upon for application]

5. I/We do not, nor does any person on my/our behalf, hold any security on the defendant's estate, or any part thereof, for the payment of the abovementioned sum.

OR

5. I/We hold security for the payment of [*part of*] the abovementioned sum.

I/We will give such security for the benefit of all the creditors in the event of a bankruptcy order being made.

OR

5. I/We hold security for the payment of part of the abovementioned sum and I/we estimate the value of such security to be \$_____. This application is not made in respect of the secured part of my/our debt.

6. There has been no stay of execution in respect of this debt [*for judgment debts only*].

7. To the best of my/our knowledge and belief, I/we verily believe that the Debt Repayment Scheme applies to the defendant as the defendant —

(a) does not have debts exceeding *\$150,000/\$250,000, or the aggregate of his unsecured debts in respect of which this bankruptcy application is made, does not exceed *\$150,000/\$250,000;

(b) is not an undischarged bankrupt;

(c) has not been a bankrupt in the 5 years preceding the date of this application;

(d) is not presently subject to a voluntary arrangement;

(e) has not been subject to a voluntary arrangement in the 5 years preceding the date of this application;

(f) is not presently subject to a debt repayment scheme;

(g) has not been subject to a debt repayment scheme in the 5 years preceding the date of this application;

(h) is not a sole-proprietor;

(i) is not a partner in a firm;

(j) is not a partner in a limited liability partnership.

(*Note: The Debt Repayment Scheme does not apply to the applicant if the applicant fails to satisfy any of the conditions specified in paragraph 7 above.*)

*Delete accordingly. Please refer to section 289(2)(a) of the Insolvency, Restructuring and Dissolution Act as modified by section 21(1)(a) of the COVID-19 (Temporary Measures Act) Act 2020.

OR

7. To the best of my/our knowledge and belief, I/we verily believe that the Debt Repayment Scheme does not apply to the defendant as the defendant —

-
-
- (a) has debts exceeding *\$150,000/\$250,000, or the aggregate of his debts in respect of which this bankruptcy application is made, exceeds *\$150,000/\$250,000;
 - (b) is an undischarged bankrupt;
 - (c) has been a bankrupt in the 5 years preceding the date of this application;
 - (d) is presently subject to a voluntary arrangement;
 - (e) has been subject to a voluntary arrangement in the 5 years preceding the date of this application;
 - (f) is presently subject to a debt repayment scheme;
 - (g) has been subject to a debt repayment scheme in the 5 years preceding the date of this application;
 - (h) is a sole-proprietor;
 - (i) is a partner in a firm;
 - (j) is a partner in a limited liability partnership.

(Note: Please delete the sub-paragraphs which you are not relying on to support your knowledge and belief.)

*Delete accordingly. Please refer to section 289(2)(a) of the Insolvency, Restructuring and Dissolution Act as modified by section 21(1)(a) of the COVID-19 (Temporary Measures Act) Act 2020.

8. The Official Assignee/[*the name of the licensed insolvency practitioner*] has consented to being appointed as trustee of the bankrupt's estate. [A copy of the licensed insolvency practitioner's licence is annexed.]

(Note: A copy of the licensed insolvency practitioner's licence granted under section 53 of the Insolvency, Restructuring and Dissolution Act 2018 must be annexed if a licensed insolvency practitioner is being appointed as trustee of the bankrupt's estate.)

Sworn (or affirmed) on the day of 20 ,
at
(through the interpretation of)

Before me
Commissioner for Oaths