

s22 (Out of Scope)



Australian Government Services Australia

Financial Institution (FI) garnishees to recover debts 107-05050020

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Background

s22 (Out of Scope)

This document outlines information for Debt Staff responsible for placing a garnishee notice on a customer's FI account.

Review customer's record

Recovery of debt must be quick and efficient without causing financial hardship to customers. Recovery arrangements include:

- full cash payments
- recovery by instalments
- withholdings, and
- garnishee action

Staff must:

- review a customer's record carefully before applying a garnishee, and
- attempt to contact the customer to make sure that applying the garnishee is appropriate

A customer may prefer to organise a payment in full rather than be subject to a garnishee notice.

Before garnishee action can be taken, staff must try to negotiate payment by all available voluntary methods, unless a determination is made that these methods are not appropriate in the circumstances of the particular case. Garnishee action can then only occur if the customer:

- fails to enter into a reasonable arrangement to repay the debt. For example, where they:
 - do not agree to an arrangement when contacted
 - do not respond to contact by letter or phone, or
 - fail to disclose details about their true capacity to repay and do not agree to a reasonable arrangement when this is identified
- fails to make a particular payment under an arrangement they have entered into. When a customer refuses to enter into a payment arrangement, garnishee action can proceed without any further contact. If the customer retracts their refusal statement, agree on a payment arrangement if garnishee has not already applied

A decision that existing payment arrangement is not reasonable must be made and documented by an APS 5/6 Officer. Do this before garnishee action commences. Garnishee can only be implemented for customers with an existing repayment arrangement if they refuse to revise the arrangement to align with their true capacity to repay.

FI garnishees

Use the s47E(d) will not accept paper requests.

to issue a request for information (Q608) letter to the Commonwealth Bank as this FI

The FI garnishee must leave a reasonable amount for [day to day living expenses](#) in the account. This may result in partial recovery despite the bank account holding enough for full recovery.

Garnishee of FI account/s can satisfy as much as possible of the debt/s outstanding. A partial garnishee is possible when the account balance covers a portion of the debt. Use common sense and sound judgment when placing a partial garnishee. Ensure the garnishee amount is [cost effective](#) and reasonable given the case circumstances.

When issuing a garnishee notice, carefully consider the appropriate pay start date:

- the date **must** be no earlier than 15 days after the notice is issued
- if sending the notice via post, an additional 8 calendar days **must** be allowed for potential postage delays
- the auto populated start date may need to be manually altered due to script limitations

National Disability Insurance Scheme (NDIS) bank accounts

A funded support package is provided to scheme participants. Do not garnishee bank accounts held exclusively for the purposes of self managing NDIS funds. Scheme participants are not required to inform Services Australia about this bank account.

National Redress Payment

A payment made under the [National Redress Scheme](#) is not considered as income for the purposes of the:

- Social Security Act 1991
- Veterans' Entitlements Act 1986
- income tax assessment text

However, redress payments may be considered as:

- savings
- a financial resource, or
- an asset

For example, determining a social security payment can consider a redress payment under the assets test.

National Redress Scheme payments are eternally protected from garnishee by Section 49(2) of the National Redress Act. Services Australia has no statutory right to garnishee these payments.

Joint accounts

Garnishee notices must not be issued against joint bank accounts. This is because it is not possible to identify any portion as belonging solely to one owner.

Term deposit accounts

Garnishee of term deposits may occur. The garnishee notice immediately attaches to the term deposit. FI's do not have to pay the garnishee amount until the term deposit matures or the customer terminates it.

Trust accounts

The only circumstances in which a garnishee notice should be issued against a trust fund are where the:

- debtor is owed money by the trust fund, or
- trust fund does not have the true nature of a trust (such as a bank account held on trust for another person). See the [Resources](#) page for an example

If it is difficult to determine if a trust exists, seek specific advice from local Level 1 Technical Support.

Do not garnishee deceased customer accounts, pursue recovery through the executor of the estate.

Voluntary garnishee

Staff must not accept a voluntary garnishee arrangement. To discuss repayment options with the customer, see [Arranging cash repayments to recover debts](#).

Garnishee and Interest Charge for non-current customer debtors

The system treats other garnishee arrangements as a debtor not being in an acceptable recovery arrangement. Interest applies if at the time the Initial Interest Charge Notice is sent, the debtor is not in an acceptable recovery arrangement. For further information on the Interest Charge, see [Interest Charge \(IC\) for Centrelink debtors no longer receiving payments](#).

The [References](#) page contains links to Accountable Authority instructions (AAI).

Related links

[Garnishees](#)

[Managing recovery and non recovery of Centrelink debts](#)

[Negotiation of debt repayments with customers](#)

[Procedures for arranging withholdings to recover debts](#)

[Third party withholdings for debt recovery](#)

[Voluntary deduction \(direct debit\) arrangements to recover debts](#)

[Discounting arrangements for recovery of debts](#)

[Recovering debts from a deceased customer's estate](#)

[Interest Charge \(IC\) for Centrelink debtors no longer receiving payments](#)

[Using Debt Scripts in Customer Record](#)

Process

For Debt Staff responsible for putting in place garnishees.

This document outlines information for Debt Staff responsible for placing a garnishee notice on a customer's FI account.

On this page:

[Consider garnishee of funds in the customer's FI account](#)

[Calculate and implement garnishee](#)

Consider garnishee of funds in the customer's FI account

Table 1

Step	Action
1	<p>The s47E(d) script must be used when actioning a debt + Read more ...</p> <p>Use the s47E(d) when actioning a debt and follow the process below. This procedure also applies if the script is unavailable.</p> <p>Follow the Garnishees procedure to make sure garnishee action is appropriate.</p> <p>For a new garnishee action, go to Step 2.</p> <p>To DOCument returned correspondence, go to Step 8.</p>
2	<p>Account type + Read more ...</p> <p>Is the account to be garnished for a deceased customer, a trust account, protected under the National Redress Scheme or a self-managed National Disability Insurance Scheme (NDIS) account?</p> <ul style="list-style-type: none"> • Yes, do not place garnishee. Consider alternative recovery methods. See Managing recovery and non-recovery of Centrelink debts • No, go to Step 3

3	<p>Joint account + Read more ...</p> <p>Is the account to be garnisheed a joint account?</p> <ul style="list-style-type: none"> • Yes, do not proceed with the garnishee unless signatories are co debtors. Depending on the amount, consider referring the file to Civil Recovery. See Managing recovery and non recovery of Centrelink debts • No, go to Step 4
4	<p>Determine authority of debt + Read more ...</p> <p>Authority of debt to be determined by the s47E(d) screen. Do not garnishee debts raised:</p> <ul style="list-style-type: none"> • under the Public Governance, Performance and Accountability Act 2013 (PGPA) • under the Financial Management and Accountability Act 2014 (FMA) • by other government departments <p>Do not issue garnishee for:</p> <ul style="list-style-type: none"> • debts under Bankruptcy or Part IX debt agreement • debts written off under Non-lodger separated s47E(d) couple provisions <p>Is it still cost effective to pursue garnishee action excluding PGPA/FMA Act debts?</p> <ul style="list-style-type: none"> • Yes, go to Step 5 • No, do not proceed with garnishee action. Close the referral s47E(d). Record details on a s47E(d)
5	<p>Case Managed Recovery + Read more ...</p> <p>Is the Debt Recovery officer considering garnishee action as part of a Case Managed Recovery Team?</p> <ul style="list-style-type: none"> • Yes, go to Step 7 • No, go to Step 6
6	<p>Considerations before issuing a request for information letter + Read more ...</p> <p>Before issuing a request for information (Q608) letter to the FI, Debt Recovery officers must:</p> <ul style="list-style-type: none"> • not issue a notice with the intention to source employment leads from the transaction history • ensure the garnishee is cost effective and not for debts under \$2,500 (unless information gathered and/or the customer's record indicates there may be funds available in the account for possible garnishee and no other recovery methods are available) <p>Is it still appropriate to send a Q608 letter to the FI?</p> <ul style="list-style-type: none"> • Yes, go to Step 7 • No, do not proceed with garnishee action. Close the referral s47E(d). Record details on a s47E(d)
7	<p>Send a Q608 notice to the FI to request account information + Read more ...</p> <p>s47E(d)</p> <p>Send the Q608 to the FI:</p> <ul style="list-style-type: none"> • annotate the s47E(d) and close • resubmit the s47E(d) activity for 15 days • when the resubmit/review date is due or the information arrives, go to Step 8 <p>Note: to contact a FI, staff should go to the s47E(d) screen in Customer Record or Customer First system. The s47E(d) must be used when issuing a Q608 notice to the Commonwealth Bank.</p>

8	<p>Returned correspondence + Read more ...</p> <p>If the FI has returned a completed Q608, go to Step 9.</p> <p>If not, contact the FI to discuss the reason why the information has not been provided. Check if:</p> <ul style="list-style-type: none"> the request was sent to the correct address the customer is known by another name a second notice needs to be issued a response timeframe has been given the use of secure emails will expedite the process <p>Annotate the original ^{s47E(d)} with the details.</p> <p>Where further time to respond is requested, resubmit the ^{s47E(d)} activity accordingly.</p> <p>When the resubmit/review date is due or the information arrives, go to Step 9.</p>
9	<p>Document the returned correspondence + Read more ...</p> <p>DOCument the details of the returned Q608.</p> <p>If the customer's contact information differs from their record, consider:</p> <ul style="list-style-type: none"> information reliability, and if it is appropriate to contact the customer using the new details <p>Note: do not use information obtained from a third party through a returned questionnaire to update a person's record. Confirm customer details before updating their record.</p> <p>Have reliable and appropriate contact details been provided by the FI?</p> <ul style="list-style-type: none"> Yes, attempt to contact the customer using this information, see Outbound customer contact and gathering information when recovering debts No, go to Step 10
10	<p>Sufficient funds + Read more ...</p> <p>Garnishee of FI account(s) can occur for optimal debt recovery. Partial garnishee is possible if debt is above \$2,500.</p> <p>When garnisheeing from FI accounts to repay debt, leave a minimum weekly balance for day to day living costs. For debtors who are:</p> <p>^{s47E(d)}</p> <p>If a customer garnishee occurs, will they have reasonable amount for day to day living expenses in their account?</p> <ul style="list-style-type: none"> Yes, go to Table 2 > Step 1 No, do not proceed with garnishee action. Close the referral ^{s47E(d)}. Record details on a ^{s47E(d)}. Procedure ends here

Calculate and implement garnishee

Table 2

Step	Action
1	<p>Warnings + Read more ...</p> <p>The customer should have received a verbal or written warning of potential garnishee action. The garnishee must occur within 90 days of this contact.</p> <p>See Resources page of Garnishees.</p>

	<p>Has the customer been warned of the possibility of a wage garnishee in the last 90 days?</p> <ul style="list-style-type: none"> • Yes, go to Step 2 • No, send a contact letter with final option (Q190) to the customer. Resub any activity and/or s47E(d) for 14 days
2	<p>APS5 or above approval + Read more ...</p> <p>APS5 or above approval must be obtained and documented before implementing a bank garnishee.</p> <p>Has APS5 or above approval been given?</p> <ul style="list-style-type: none"> • Yes, go to Step 3 • No: <ul style="list-style-type: none"> ◦ do not proceed with garnishee action ◦ close the referral s47E(d) ◦ record details on a s47E(d) ◦ procedure ends here
3	<p>Garnishee notice amount + Read more ...</p> <p>Go to the s47E(d) to determine which debts can be included in the garnishee notice amount. Consider:</p> <ul style="list-style-type: none"> • accrued interest already applied to the outstanding debt • debts due and payable • Public Governance Performance and Accountability Act debts cannot be included • debts under Bankruptcy or Part IX cannot be included • debts written off under Non-lodger separated s47E(d) couple provisions cannot be included <p>Once the notice amount has been determined, go to Step 4.</p>
4	<p>Commence garnishee action + Read more ...</p> <p>Go to the s47E(d) screen:</p> <p>s47E(d)</p>
5	<p>Complete the s47E(d) screen details + Read more ...</p> <p>Go to the s47E(d) screen and complete the following fields:</p> <p>s47E(d)</p>
6	<p>Prepare notice + Read more ...</p> <p>Create a DRC - Lump sum or third party garnishee and advice to debtor (Q442) letter to the FI and to the customer. See Creating a manual letter or Online Advice (OLA).</p>

	<p>s47E(d)</p> <ul style="list-style-type: none"> Garnishee notices must be sent to the last known address of the customer <p>Note: do not send garnishee notices to an end dated address on the customer's record. Where there is an end dated address conduct an ^{s47E(d)} search. See Safeguarding customer privacy when raising and recovering debts</p> <p>Concerns about customers moving funds out of the garnisheed account means garnishee advice to the FI can be sent via secure email. See Secure Markings on the Resources page.</p> <p>The garnishee notice can be marked to the attention of a particular person or position. However, this must be after the FI's name.</p>
7	<p>Customer aliases + Read more ...</p> <p>If the FI being issued with the garnishee notice recognises the customer by another name, the garnishee notice must be issued in the customer's legal and known names.</p> <p>A customer's alias should only be included on a garnishee notice when the FI advises they do not recognise the customer by the main name displayed on the customer's record.</p> <p>Does the FI being issued with the garnishee notice recognise the customer by another name or alias?</p> <ul style="list-style-type: none"> Yes, go to Step 8 No, go to Step 9
8	<p>Recording alias names + Read more ...</p> <p>Add the customer's alias onto their record.</p> <p>s47E(d)</p> <p>Include the customer's alias in the letter. If creating a letter in:</p> <p>s47E(d)</p> <p>Go to Step 9.</p>
9	<p>Finalise the garnishee and issue notice + Read more ...</p> <p>When the letter is complete:</p> <p>s47E(d)</p> <p>Is the garnishee notice being sent to the FI with an email contact?</p> <ul style="list-style-type: none"> Yes, go to Step 10 No, procedure ends here
10	<p>Forward the completed Q442 letter to an Operational leader + Read more ...</p> <p>Operational leaders within authorised teams will have access to a specially created positional mailbox. This mailbox is used for sending/receiving electronic correspondence to/from FIs.</p>

	Go to Step 11.
11	<p>Issue request + Read more ...</p> <p>Operational leaders will issue the request to the FI via the positional mailbox with a debt related email subject (for example, s47E(d) with the correct security marking. See Secure Markings on the Resources page.</p> <p>Once actioned by the FI, they will reply back via the positional mailbox, acknowledging the request has been actioned.</p> <p>The Operational leader will archive the email(s) appropriately.</p>

References

Policy

[Accountable Authority instructions \(AAI\).](#)

[Social Security Guide 6.7.2.50 Debt recovery by garnishee notice](#)

[Family Assistance Guide 7.2.7 Debt recovery by garnishee](#)

[Paid Parental Leave Guide 6.3.4 Methods of debt recovery](#)

Legislation

Links to the Federal Register of Legislation site go to an 'All versions' page. Select the 'Latest' version.

[Social Security Act 1991](#)

- section 1230C, Methods of recovery of debt
- section 1233, Garnishee notice

[A New Tax System \(Family Assistance\) \(Administration\) Act 1999, section 89, Garnishee notice](#)

[Paid Parental Leave Act 2010, section 184, Garnishee notices - general](#)

[Student Assistance Act 1973, section 42, Recovery of certain overpayments from third parties](#)

Resources

Item

Description

1

Example of bank account on trust

Fitz opens a bank account on trust for Anji (the debtor). Fitz's account can be garnisheed to recover Anji's debt if there are sufficient funds in the account to satisfy full or part repayment of the debt.

Intranet links

[Security Markings](#)

Training & Support

Add the course number to the ^{s47E(d)} field in the **s47E(d)** in ESSentials:

- **s47E(d)** - Debt recovery - other recovery methods

Debt recovery - other recovery methods

This is the text alternative. s47E(d)

Course code: s47E(d)

Date/version: October 2024 V1.4

Duration: 90 minutes

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Learning Outcomes

Following completion of this course, you should be able to:

- explain the other types of recovery methods
- explore why Services Australia (the agency) uses other recovery methods
- describe how to apply other recovery methods
- consider the affects other recovery methods have on the customer.

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Learning connections

Throughout this course, you will focus on a number of different elements to help provide you with a holistic understanding of other recovery methods as a part of the debt recovery process.

Customer journey

This helps you understand the customer experience in dealing with Services Australia (the agency) and the importance of your role as a Service Officer.

Policy and process

Throughout the course, you will need to consider the relevant legislation, policy and processes for other recovery methods.

Integrity

This helps you focus on the importance of making quality decisions and the impact of our decision making for our customers, peers and the agency.

Resources and support

This covers the tools and resources available to support you when considering other recovery methods.

Knowledge check

Throughout the course, you will have the opportunity to complete a number of activities, which allows you to check your understanding on the topics and concepts covered.

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Topic 1 – Introduction to other recovery

This topic provides you with an overview and introduction to other recovery options when considering debt recovery. It touches on what other recovery is and how and when you might use it in your role.

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What is other recovery

Other recovery refers to a number of different methods the agency may choose to use when recovering a debt.

Other recovery methods may include:

- deceased estates
- bankruptcy
- garnishees
- Departure Prohibition Orders (DPOs).

You will assess the unique circumstances of the customer when determining which of these other recovery methods is appropriate.

This course covers the different types of recovery methods in more detail in the subsequent topics.

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Why use other recovery methods

When a customer has no arrangement in place and primary recovery methods have been exhausted, it may be appropriate for us to investigate other options to recover a customer's debt.

When you consider the other recovery methods, it is important to weigh up the cost effectiveness of pursuing further recovery.

Cost effectiveness is determined by the amount owed, the customer's circumstances and the cost of available debt recovery action.

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Topic 2 – Deceased estates

This topic addresses how to handle debt recovery for deceased customers. It covers recovery and non- recovery of debts, as well as when you can notify the executor.

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Deceased estates - recovery

Deceased estates are a very sensitive recovery method. It is important you are mindful of your actions when processing a debt for a deceased estate.

When a customer dies and has an outstanding debt owing to the agency, the amount owing becomes a liability of the customer's estate.

In some circumstances, another person may be liable for the debt. This may be where:

- the executor has been negligent in their distribution of the estate
- a third party is identified as having received a payment intended for the customer.

It is important to thoroughly investigate these cases, as the debt may need to be raised against the liable person.

When pursuing recovery of a debt on a deceased customer's record it is important that you:

- do not accept payment of a debt from any source other than the deceased customer's estate
- do not, under any circumstance, pursue or accept ongoing repayment arrangements (including third party withholdings) from a third party for a deceased customer's debt

- do not garnishee a financial institution account/s belonging to a deceased customer's estate
- do recover a deceased customer's debt through Families debt offsetting.

Refer to OB Recovering debts from a deceased customer's estate 107-05090020 to answer the following questions.

Question

Where do we check for information regarding the death action?

Answer

- **s47E(d)** screen
- Fast Notes.

Question

What is the Q080 letter?

Answer

DRC Advice of account to executor (Q080).

Question

When can we contact an executor?

Answer

We must wait until 4 weeks have passed since the date of the customer's death before we contact (written or verbal).

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Deceased estates - recovery process

Let's now explore the steps in the deceased estate recovery process.

Agency notified of customers death

When a customer dies, a death action is completed on their record. The **s47E(d)** screen is updated with all of the relevant information.

28 days pass since death of customer

As outlined earlier in the topic, we must wait at least 28 days before making any written or verbal contact with the estate.

Determine cost effectiveness of recovery

If the debt is under \$200, it is determined to not be cost effective to recover. These debts will be permanently written off. This process is covered in another learning course. If the debt is over \$200, recovery will be pursued.

Q080 letter sent to executor/last known address

A Q080 is a DRC Advice of account to executor letter and is issued to the deceased estate. It contains the relevant information about the debt.

Sufficient funds to recover debt?

s47E(d)

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Deceased estates - non-recovery

Now that you have covered what to do when pursuing recovery from a deceased estate, let's explore when non-recovery is more appropriate.

There are two circumstances where permanently writing off a debt on a deceased customer's record would be appropriate. These include where:

- the debt is under \$200, making recovery action not cost effective
- there is no estate or there are insufficient funds in the estate to pay the debt.

Not cost effective

For deceased estates, it is not cost effective to continue recovery efforts when:

- the outstanding debt balance is less than \$200

- a new debt is raised, it is under \$200 and there are no other outstanding debts
- the outstanding debt balance is less than **s47E(d)** and reasonable efforts have been made to recover the amount from the estate.

Important: When writing off the debt, make sure to use the permanent write off code Deceased Insufficient Estate.

No estate or insufficient funds

You may permanently write off a debt due to there being no estate or insufficient funds in the estate.

This may be when:

s47E(d)

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Deceased estates - notifying the executor

As discussed earlier, you cannot contact an executor or third party (verbal or written) until 4 weeks have passed since the customer's death.

It is extremely important that you exercise sensitivity when discussing a debt with an executor or third party at all times.

You must notify the executor by telephone and in writing of any:

- outstanding debts raised against the customer before they passed away
- new debts raised after the customer passed away
- amendments made to an outstanding debt as a result of reassessment or review.

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Topic 3 – Bankruptcy and debt agreements

This topic provides an introduction to bankruptcy. It covers what each of these are, the effect on debt recovery and debt repayments.

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What is bankruptcy

You may ask what bankruptcy is. Let's explore this in some detail now.

Bankruptcy is a legal process where people who cannot pay their debts are released from this responsibility under the protection of the *Bankruptcy Act 1966*. Bankruptcy is regulated by the Australian Financial Security Authority (AFSA).

Bankruptcy is not the final straw and there are other alternatives to bankruptcy.

These alternatives include:

- debt agreements
- personal insolvency agreements
- temporary debt protection
- debt agreements.

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Effect of bankruptcy on recovery

When a customer is declared bankrupt, it can impact their Centrelink debts. Some debts cease to be

payable during the period that the customer is bankrupt. If a customer asks how bankruptcy will affect their debts, you should only advise the customer that:

- recovery of their debt will be suspended for the period of the bankruptcy
- they should include all Centrelink debts when informing their bankruptcy trustee.

s47E(d)

Navigate to OB What to do when a customer is bankrupt 107-05070010 to explore the steps on how you would refer a customer's bankruptcy enquire to the Debt Administration and Bankruptcy team.

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Bankrupt customers

If a customer states that they are bankrupt, you first need to check if we already have this noted on their record. You can do this by referring to the following screens:

- **s47E(d)** – Is there any mention of bankruptcy or debt agreement?
- **s47E(d)** – Are there debts that are either temporarily or permanently written off?
- **s47E(d)** – Are the write offs due to bankruptcy or debt agreement?
- Scanned documents – To determine if the customer has provided a copy of their bankruptcy agreement.

If the details are not noted on the customer's record, you then need to ask the customer if they have included their Centrelink debt/s into their bankruptcy. If not, they will need to contact their trustee to have their debts included. This will result in the trustee notifying the agency of the included debt/s and will provide us with full bankruptcy details.

If the customer has already had their Centrelink debt included in their bankruptcy, you need to ask the customer to provide all of the following details:

- bankruptcy number
- bankruptcy date
- details of the trustee.

You can then record these details in a **s47E(d)** . Remember to change the office code to **s47E(d)** . This ensures that the **s47E(d)** reaches the Debt Administration and Bankruptcy team.

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Effect of bankruptcy on repayment

Bankruptcy also has an effect on debt repayment arrangements.

If a customer requests to set up a repayment arrangement, the first thing you need to do is to check the **s47E(d)** screen to tell if the debt has been written off due to the customer's bankruptcy. How you proceed will be determined by whether or not the debt is covered by the customer's bankruptcy.

If the customer's debt has been written off due to bankruptcy, you need to advise the customer that we cannot accept any payments while they are under bankruptcy. The customer should contact their administrator or trustee to discuss their available funds.

If the customer has other debts that are not covered by bankruptcy, they can make payment arrangements on these debts only. If you are unsure if the debts should be included in the bankruptcy, advise the customer that their record will be referred to the bankruptcy specialist team who will assess them to determine the best course of action.

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Part IX Debt Agreements

For customers that do not want to pursue bankruptcy, a Part IX Debt Agreement can be a flexible alternative under the *Bankruptcy Act 1966*.

So, what is a debt agreement?

A debt agreement is a binding compromise between a debtor and their creditors. As part of the agreement, the debtor commits to making repayments calculated based on their expected income from all sources, household expenses and circumstances. The repayments are made to a debt agreement administrator who then makes distributions to creditors in the form of dividends.

Customers with a debt agreement will have a DOC placed on their record with details of the agreement. This will include a list of all debt IDs covered by the debt agreement.

While a debt agreement is in effect, we do not pursue recovery action. Such debts will have a temporary write off code of DAC (debt agreement current) applied against them.

Important note: If a customer calls to discuss recovery of a debt covered by a debt agreement, advise the customer that they will need to contact their debt agreement administrator. As discussed earlier, we do not pursue recovery of such debts and the dividend repayments received are administered by the administrator.

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Topic 4 – Garnishees

This topic covers garnishees, what they are, the various types of garnishees, as well as reviews of garnishee, appeals and the refund process.

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What is a garnishee

A garnishee is a legal notice issued to a third party to seize, in part or in full, money owing to the agency. A garnishee is a last resort and only used when a customer has not engaged with the agency to repay their debt.

If it can be established that the customer failed to enter into a reasonable arrangement to pay their debt, or had an arrangement they did not keep, the agency can proceed with garnishee action.

There are several types of garnishee action the agency can take, including:

- wage
- tax
- financial institution.

Each of these types of garnishees are reviewed during this topic.

With the exception of automatic tax garnishees, debts that have a garnishee action applied to them are generally case managed and will have a **s47E(d)** DOC on the customer record. The **s47E(d)** screen will also show a status of CIVIL ACTION.

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Wage garnishee

Let's begin with wage garnishees.

Wage garnishee may be applied to customers who have ongoing income. The employer must be known to the agency to implement a wage garnishee.

A wage garnishee is set at a particular rate, depending on the type of debt and the amount of the debt or the amount of the customer's gross wage.

Navigate to OB Garnishee of continuing income to recover debts 107-05050010 to answer the questions.

Question

What is the Single Touch Payroll (STP) data match instalment rate?

Answer

10% of gross income amount.

Question

What is the Family Assistance Debts instalment rate?

Answer

For debts under \$1,500, it is the greater of 10% of the customer's gross income or an acceptable cash level (for example, \$30 or \$60 per fortnight).

For debts over \$1,500, it is 10% of the customer's gross income only.

Question

What is the instalment rate for all other debts?

Answer

The greater of 10% of the customer's gross income or acceptable cash level for example, \$30, \$60 or \$100 fortnight.

Examples can be found in the resources tab of the OB.

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Tax garnishee

Next up is the tax garnishee.

A customer may be automatically matched with the Australian Tax Office (ATO) for a tax garnishee, where they:

- have an outstanding debt
- are no longer receiving a Centrelink payment
- do not have a payment arrangement in place.

Customers who are identified as eligible for tax garnishee are issued with a tax garnishee warning letter.

Every customer is entitled to natural justice and if there are exceptional and unforeseen circumstances that cause the customer real financial hardship, a full or partial refund of the garnishee may be considered.

The customer must provide documentary evidence within 14 calendar days of their contact with the agency or the refund cannot be made.

- If the customer does not meet the relevant criteria for a refund, you should tell the customer they are not eligible for a refund and advise them of their appeal rights.
- If the customer does meet the relevant criteria for a refund, you can negotiate a full or partial refund of the tax garnishee.

Important

note: FAO debt offsetting is different to a tax garnishee and will occur for current customers and non-current customers with repayment arrangements in place. If

the customer wants to discuss or dispute FAO offsetting, you need to transfer the call to the National Families and Child Care Level 2 Policy Helpdesk.

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Financial institution garnishee

Let's now move on to financial institution garnishees.

A Financial Institution (FI) garnishee is when we issue a notice to a financial institution to deduct money held on behalf of the customer.

We request information from the FI to check if there are sufficient funds available to recover the debt. Where there are sufficient funds identified, this may result in part of the debt being recovered, despite the bank account holding enough funds to cover a payment in full.

Question

What are some reasons why we might not fully recover a debt even when there are sufficient funds identified? Using OB, select the most appropriate answer from the following choices.

- a) An FI garnishee must leave a reasonable amount for day-to-day living expenses in the customer's account.
- b) If the debt is above a certain amount, over \$2,500, a partial recovery may be applied.
- c) Both of the above.

Answer

- c) Both of the above.

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Garnishee customer does not agree with decision

As with all decisions made by the agency, garnishee decisions can be reviewed at the request of the customer.

This includes:

- tax garnishees
- regular income garnishees
- financial institution (FI) garnishees
- compensation garnishees

- other types of garnishees.

If the customer disagrees with the decision to garnishee their funds, the decision must be explained at the first point of contact. A garnishee should not be removed simply because a customer does not agree with the decision to implement it. If the decision has been made correctly, the garnishee should remain in place and the customer advised of their appeal rights.

Question

Under what circumstances can we remove a garnishee?

Using OB, select the most appropriate answer from the following choices.

- a) The customer no longer has a recoverable debt.
- b) The garnishee was applied incorrectly.
- c) The customer paid their debt in full after the garnishee was issued, and they have provided proof of payment, for example, a receipt number.
- d) All of the above.

Answer

- d) All of the above.

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Tax garnishee appeals

This topic has briefly touched on appeals with regards to tax garnishees. Let's explore this in more detail.

There are 2 types of enquiries you may receive:

- the customer disagrees with the decision to garnishee their tax refund
- the customer requests a full or partial refund of their tax garnishee.

The first thing you need to do is check the **s47E(d)** screen to make sure that it is a **s47E(d)** . If **s47E(d)** does not display an ATO garnishee payment, it means we did not garnishee the customer's tax refund. The customer might need to contact the Australian Taxation Office for further assistance.

If there is a tax garnishee payment on **s47E(d)** screen, you can progress with the customer conversation.

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Tax garnishee appeals process

If the customer disagrees with the decision to garnishee their tax refund, you need to follow several steps.

Explain the decision

Give the customer a detailed explanation of the decision to garnishee. Do not end a garnishee because the customer does not agree with the decision.

Check if the garnishee was applied correctly

If the garnishee was not applied correctly, the decision should be changed and any withheld money refunded to the customer. If the garnishee was applied correctly, continue with the process.

Advise of appeal rights

If a customer does not understand the reason for a decision, they may request an explanation. Customers may also provide new information relevant to the decision. A Subject Matter Expert (SME) will investigate the decision and try to contact the customer.

A customer may also apply for a formal review. This may be without requesting an explanation, or after a SME explanation. An Authorised Review Officer (ARO) will review the decision and try to contact the customer.

Does the customer request a review of decision?

If yes, you need to run the **s47E(d)** script. It is important that when running the script, you are clear when it indicates the customer is just requesting a review/appeal of the decision to garnishee, **not a refund**.

If no, no further action required.

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Tax garnishee refund requests

If the customer requests full or partial refund of the tax garnishee, you need to have an in-depth discussion with them.

Navigate to Process tab of OB Garnishee customer does not agree with decision 107-05050080, for assistance in completing the following activity.

Question

Which of the following points should be covered in your discussion with the customer?

a) Amount expected vs amount actually received

- b) The agency can only consider financial hardship for exceptional and unforeseen circumstances
- c) That documentary evidence will be required within 14 calendar days
- d) No decision will be made until the documentary evidence has been considered
- e) An arrangement for repaying the debt
- f) All of the above.

Answer

- f) All of the above.

Discuss the difference between how much they expected from their tax return and the amount actually received.

A tax garnishee refund cannot be provided for day-to-day normal expenses. Refer to OB for additional information on what can be considered exceptional and unforeseen.

Documentary evidence of the exceptional and unforeseen circumstances and the financial hardship will be required. The customer must provide this within 14 calendar days, otherwise the refund request cannot proceed. The quickest way for customers to provide this information is via online services. Other options to get evidence to us include:

- mail
- fax
- lodge at a service centre.

When the customer provides the evidence, it will be assessed against the requirements of financial hardship for exceptional and unforeseen circumstances.

Discuss an arrangement for repaying the debt, preferably a voluntary repayment arrangement. The arrangement should start within 2 weeks.

Garnishee of employment income can be considered. If no arrangement is made, further recovery action may be taken.

It is important to note that where the customer is appealing the garnishee decision and not the debt decision, we do not pause the recovery of the debt.

A debtor can ask that recovery of a debt be paused when they have:

- provided new information for a reassessment of the debt
- requested an explanation of the debt by a Subject Matter Expert (SME)

- applied for a formal review of the debt by an Authorised Review Officer (ARO)
- applied for an Administrative Review Tribunal (ART) first review of the debt.

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Topic 5 – Departure Prohibition Order (DPO)

This topic covers DPOs including what they are and how they affect our customers.

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What is a DPO

Let's now explore the final other recovery method, the DPO.

A DPO prevents a person with a Centrelink debt from leaving Australia.

Only delegated decision makers can issue a DPO, revoke a DPO or vary a DPO.

There are circumstances where a customer may be issued a Departure Authorisation Certificate (DAC), which allows a person to depart Australia, for a defined period, despite having a DPO in force.

This places strict limits on when a person may depart and must return to Australia.

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Who can action a DPO

Let's now consider who can action a DPO.

Officers of the Australian Federal Police (AFP) and the Department of Home Affairs are authorised to prevent the overseas departure of a person subject to DPO. If a person attempts to leave Australia when a DPO is enforced and they do not have a DAC, the AFP will stop them at the point of departure.

Departure Prohibition work is completed by a specialised team.

If an active DPO is in place, there will be an indicator on the customer's record of **DPO Status - Active**.

- In Customer First: the status will show on the s47E(d) screen.
- In Customer Record: the status will show on the s47E(d) screen.

A person enquiring about DPO or a DAC should be advised to call the DPO team on the number provided in the notices sent to them. If a customer contacts via the Debt Recovery general queue the call should be warm transferred to the DPO team.

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Knowledge Check

You have now covered all of the other recovery method theory. The following short scenario-based quiz will support you in consolidating your knowledge. You can use Operational Blueprint to assist with answering the questions.

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Scenario 1

s47E(d)

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Scenario 2

Bridgette calls to advise that with their husband, they have declared bankruptcy after a failed business venture. Bridgette has just received their bankruptcy details from the Australian Financial Security Authority (AFSA) and wants you to record them to stop any further withholdings occurring.

Question

What details need to be recorded in the DOC by running the **s47E(d)** ?

Answer

You need to record the:

- bankruptcy number
- date of bankruptcy
- name of the trustee or administrator
- amount listed for the customer's debt to the agency.

Question

After recording details of Bridgette's bankruptcy in a DOC, how is that piece of work allocated to the Debt Administration and Bankruptcy Team?

Answer

s47E(d)

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Scenario 3

John's tax return was garnisheed to recover an outstanding debt of \$3,500. John has contacted the agency and explains the tax refund was to be used as spending money for a holiday. John explains they are now in financial hardship and they do not have spending money for the trip. John wants a refund of the money garnisheed from the tax refund.

Question

Are John's circumstances considered exceptional or unforeseen?

Answer

No. Exceptional circumstance is defined as outside of the customer's usual expectations and unlikely to occur again. Unforeseen is defined as unexpected and could not possibly have been known by the customer in advance.

Question

Can John be given a refund of the garnisheed funds based on the information provided during the phone call?

Answer

No, John however can provide documented evidence within 14 days to have an assessment completed.

Question

What are John's rights in this process?

Answer

John can request an explanation of decision by a Subject Matter Expert (SME) or John can apply for a formal review to be completed by an Authorised Review Officer (ARO). The s47E(d) script should be used to create either of these options.

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Summary

This topic covers a summary of the training course and the resources available.

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Course Summary

Over this course, you covered a number of topics including:

- introduction to other recovery
- deceased estates
- bankruptcy and debt agreements
- garnishees
- DPOs.

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Operational Blueprint

Operational Blueprint is your one stop shop and a very valuable resource, you can find everything you need to confidently consider and implement other recovery methods.

The following OBs will support you in your role.

- Recovering debts from a deceased customer's estate 107-05090020
- Actioning third party debts 107-04010100
- What to do when a customer is bankrupt 107-05070010
- Garnishee of continuing income to recover debts 107-05050010
- Tax garnishees to recover debts 107-05050040
- Financial Institution (FI) garnishees to recover debts 107-05050020
- Garnishee customer does not agree with decision 107-05050080
- Departure Prohibition Orders (DPO) for Centrelink customers 107-17060100
- Recovery of debts pending a reassessment, explanation or review of decision 109-04020000.

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Course Outcome

You have now finished the Debt recovery - other recovery methods course.

You should now be able to:

- explain the other types of recovery methods
- understand how and why we use other recovery methods
- describe how to apply other recovery methods
- understand the affects other recovery methods have on the customer.

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Course Evaluation

Before you finish this course, please complete the course evaluation via the [Debt recovery - other recovery methods evaluation form](#).

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Course completed

Congratulations, you have completed this course.

You may now close this window.

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