

AVOIDING PITFALLS AND DEBT COLLECTION

In the marketplace of today extra care is required in protecting your business from the threat of non-payment for goods and services provided. Here are a number of practical steps that businesses can take to limit this risk.

1. If you are providing goods or services consider the requirement of an upfront deposit from your customer.
2. You should consider charging interest on payments that are overdue and make sure that this is clearly communicated to your customers.
3. Ensure that your customers are fully aware of your credit terms and that they are clearly set out on your invoices.
4. If you are providing goods ensure that you have an effective 'retention of title' clause in your contract.
5. If you are dealing with a new customer, insist on a number of trade references and a statement of affairs from their bank or accountant.

If you are successful in obtaining judgement against a debtor in the relevant court (District Court, Circuit Court or High Court), there are a number of mechanisms you can use to attempt to secure the monies owed to you. It is important to note that having a judgement does **not** guarantee payment, however once judgement is obtained many options become available to assist in recovery.

1. You can proceed to register the judgement and have the judgement published.
2. You can have the judgement sent to the local sheriff who may seize the debtor's goods and dispose of them to discharge your debt or part of your debt.
3. A court may determine that you are entitled to an Instalment Order where the debtor pays the judgement debt in a lump sum or alternatively by way of weekly or monthly instalments.
4. You can apply for a Garnishee Order (Attachment), so that if a third party owes your debtor monies, the monies are paid to you instead of the debtor until the debt is discharged.
5. If it is a company that owes you money, you can petition the High Court to have the company wound up and a liquidator appointed if the debt is not paid within 21 days.
6. If the debtor has land or property a Judgement Mortgage may be registered against it for the amount of the judgement debt and costs.

7. You can apply to the High Court to have a debtor adjudicated a bankrupt. This is the personal equivalent to company liquidation.

These are a brief account of some of the options available to creditors. If you are in a position where you are owed money it is important to seek legal advice on the best method of recovery of the debt due at an early stage and we can help in the provision of legal advice in this area.

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