

## Search warrant under section 130 of the *Bankruptcy Act 1966*

No. \_\_\_\_\_ of 20\_\_\_\_

Federal Court of Australia  
District Registry: [State]  
Division: General

**In the matter of [name of debtor or bankrupt estate]**

To: All constables

Whereas:

- i. The person named above is a bankrupt;
- ii. The trustee of the estate of the bankrupt has applied for this warrant;
- iii. I am satisfied that the trustee has reasonable grounds for suspecting that there is on or in the premises specified in this warrant relevant property connected with the bankrupt (within the meaning of subsection 130(1) of the *Bankruptcy Act 1966*);
- iv. An affidavit has been furnished to me setting out the grounds on which the issue of the warrant is sought;
- v. The applicant for the warrant or some other person has given to me, either orally or by affidavit, such further information, if any, as I required concerning the grounds on which the issue of the warrant is sought; and
- vi. I am satisfied that there are reasonable grounds for issuing this warrant.

I [name], an eligible judge within the meaning of section 130 of the *Bankruptcy Act 1966*, issue this warrant which authorises you [\*add if needed:together with the other person(s) specified below] to enter and search the following premises [\*]at any time of the day or night[\*or]between the hours of [specify hour][am./pm.] and [specify hour][am./pm.]:

|   |
|---|
| [Give address and/or description of premises and, to avoid doubt, say if garages, storage rooms, outbuildings and vehicles are included.] |
|---|

Note that **premises** is defined in subsection 5(1) of the *Bankruptcy Act 1966* to include:

- (a) any land;
- (b) any structure, building, aircraft, vehicle, vessel or place (whether built on or not); and

(c) any part of such a structure, building, aircraft, vehicle, vessel or place.

[\*Add if required]

**Other authorised persons(s)**

The other person(s) who is/are authorised under this warrant is/are:

[Name(s)]

**Authority under this warrant**

This warrant authorises a constable and any other person named above in the warrant:

- to enter on or into the premises specified above [\*]at any time[\*or]between the hours specified above, using such force as is necessary for the purpose and is reasonable in the circumstances;
- to search the premises for relevant property connected with the bankrupt (as defined below);
- to break open, and search for relevant property connected with the bankrupt, any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, on or in the premises;
- to take possession of, or secure against interference, any relevant property connected with the bankrupt that is found on or in the premises; and
- to deliver to the following person [name and address], [\*]the trustee of the estate of the bankrupt[\*or]a person authorised in writing by the trustee of the estate of the bankrupt, any property of which possession is taken under this warrant.

By operation of subsection 130(7) of the *Bankruptcy Act 1966*, if a person takes possession of books, or secures books against interference, under the authority of this warrant that person or any other person to whom the books are delivered under the authority of this warrant:

- may make copies of, or take extracts from, the books;
- may require a person who was a party to the compilation of the books to explain to the best of the person's knowledge and belief any matter about the compilation of the books or to which the books relate;
- may retain possession of the books for such period as is necessary to enable the books to be inspected, and copies of, or extracts from, the books to be made or taken, by or on behalf of the trustee of the estate of the bankrupt named above; and

- during that period shall permit a person who would be entitled to inspect any one or more of those books if they were not in the possession of the first-mentioned person or the other person to inspect at all reasonable times such of those books as that person would be so entitled to inspect.

#### **Definition of *relevant property connected with the bankrupt***

For the purpose of this warrant ***relevant property connected with the bankrupt***, means:

- any property of the bankrupt named above;
- any property that may be connected with, or related to, that bankrupt's examinable affairs; or
- any books (including books of an associated entity of the bankrupt) relevant to any of that bankrupt's examinable affairs.

#### **Other definitions**

- Under subsection 5(1) of the *Bankruptcy Act 1966*:
  - **Constable** is defined to mean any member or special member of the Australian Federal Police and any member of the Police Force of a State or Territory.
  - **Examinable affairs**, in relation to a person, is defined to mean:
    - (a) the person's dealings, transactions, property and affairs; and
    - (b) the financial affairs of an associated entity of the person, in so far as they are, or appear to be, relevant to the person or to any of his or her conduct, dealings, transactions, property and affairs.
  - **Associated entity**, in relation to a person, is defined to mean:
    - (a) an entity (other than a company) that is, or has been, associated with the person; or
    - (b) a company that is, or has been, associated with the person at a time when the company is, or was, as the case may be, a private company.
  - **Books** is defined to include any account, deed, paper, writing or document and any record of information however compiled, recorded or stored, whether in writing, on microfilm, by electronic process or otherwise.

#### **Duration of warrant**

This warrant ceases to have effect at the start of [insert the date of a day that is not more than 7 days after the date of issue] and is not in force for any part of that day.

Date of issue:

---

Signature of issuing officer

An eligible judge within the meaning of  
section 130 of the *Bankruptcy Act 1966*

[\*delete if inapplicable]