

Insolvency Service



What will happen to my Pension?

Information on your pension when bankruptcy occurs

How will bankruptcy affect my pension?	3
What type of pension(s) do I have?	3
Will I lose all my pension?	3
What happens to the lump sum payable under my pension?	4
What information will the Official Receiver and/or my trustee need?	4
Should pension contributions be paid after the making of the bankruptcy order?	4
Can anything be done to stop my trustee from claiming my pension?	4
If my trustee has not collected my pension before my discharge from bankruptcy, will it become payable to me?	5
Where can I obtain further advice?	5

The Information in this leaflet only applies to bankruptcies where the petition was presented before 29 May 2000

How will bankruptcy affect my pension?

Part or your entire pension may be claimed by your trustee in bankruptcy, whether you are receiving it now or it is due in the future.

What type of pension(s) do I have?

There are basically four types of pension that you may have already, or could be entitled to receive in the future.

- State pension - This will include any payment from the State Earning Related Pension Scheme - SERPS.
- Occupational pension - This is a scheme set up by an employer to provide members with retirement and death benefits. Contributions may have been made by the employer, you as an employee, or both.
- Personal pension - This is a personal pension policy you have taken out with an insurance company to pay you benefits in later life. (Retirement annuity contracts are similar to personal pension plans. If you have a retirement annuity contract, it will be treated in your bankruptcy in a similar way to a personal pension plan.)
- Group personal pension - This is a personal pension policy taken out with a pension provider and often your employer or trade association will have negotiated favourable rates and terms. Following a bankruptcy order, a group personal pension is dealt with in the same way as a personal pension.

You may have more than one type of pension and you may have several pensions of the same type. For example, you may have occupational pensions from your present and previous employers.

Will I lose all my pension?

Whether or not you are currently receiving your pension, the trustee cannot claim:

- your state pension or any payments from the State Earnings Related Pension Scheme (SERPS);
- any of your occupational pension if your occupational scheme has a clause forfeiting pension benefits following bankruptcy (the trustee could claim the benefit of a personal pension policy, even if it has a similar clause); and
- any protected rights - these rights arise in any pension you may have where you or your employer have contracted out of SERPS. They represent the equivalent of the SERPS benefits within your pension. In an occupational pension scheme, the protected rights might be known as 'a guaranteed minimum pension' or 'benefits under the reference scheme test'.

When he has all the information about your pension, the Official Receiver or your trustee will be able to tell you what part, if any, of your pension is being claimed as an asset in your bankruptcy. Even if the trustee cannot claim your pension, or any part of it, the amounts you receive may still be included in the calculation of your income, if the trustee applies to the High Court for an 'income payments order' during your bankruptcy. (The High Court may order you to pay part of your wages, salary or other income to the trustee.)

What happens to the lump sum payable under my pension?

If your trustee can claim your benefits under an occupational pension scheme or personal pension, this will include any lump sum that is payable as well as the regular payments you are entitled to receive.

What information will the Official Receiver and/or my trustee need?

You have a duty to co-operate with, and to provide all the information required by, the Official Receiver and your trustee (who will be an insolvency practitioner if he is not the Official Receiver). The following details will be needed about all the pensions you are receiving, or will be entitled to receive in the future:

- the name of any occupational pension scheme which you and/or your present or former employer have contributed to on your behalf;
- any documents given to you about the amount of your benefits under occupational pension scheme(s) and the amount of contributions to those scheme(s), particularly in the last two years;
- the policy document for all personal pensions that you have taken out;
- if you are receiving a pension, the amount of your regular benefits. Also the date you received any lump sum and the amount of that payment.

Should pension contributions be paid after the making of the bankruptcy order?

Pension contributions can continue under your existing pension arrangements or under new pension arrangements made after the bankruptcy order. But it may not be in your interest to continue to make payments, particularly to a personal pension, because you may not receive the full benefit of them. You should seek advice from your pension provider or an independent financial adviser before making any payments.

Can anything be done to stop my trustee from claiming my pension?

Pension rights and benefits cannot be assigned (transferred). However, your trustee in bankruptcy may consider giving up his interest in the pension, which would mean that the benefits would come to you when they become payable. A relative or friend of yours would have to be willing to provide a suitable sum of money, based upon the current transfer value of your pension fund (excluding protected rights), before your trustee is likely to agree to this option. This is something you should discuss with your trustee so that you

have all the relevant facts about your position and that of the person providing the money.

If my trustee has not collected my pension before my discharge from bankruptcy, will it become payable to me?

Any part of your pension that is claimed by your trustee will be collected by him when you reach the retirement age under your pension arrangements, even if this is after your discharge from bankruptcy.

Where can I obtain further advice?

This publication is for general guidance only. If you have questions about your pension and your bankruptcy, you should ask your professional adviser, the trustee handling your bankruptcy or your pension provider. Please note that The Insolvency Service cannot provide legal or financial advice. You should seek this from a Citizens Advice Bureau, a solicitor, qualified accountant, your pension provider or any reputable financial adviser or advice centre.

You can obtain further copies of this or other guidance leaflets from our website: www.insolvency.detini.gov.uk or by contacting us at,

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