

Insolvency Service



How to petition for your own bankruptcy

Information about the process involved in making yourself
bankrupt

This leaflet covers the questions you are most likely to ask about the steps involved in making yourself bankrupt:

- 1. Where can I get advice about bankruptcy?**
- 2. What are the alternatives to bankruptcy?**
- 3. How do I petition for my bankruptcy?**
- 4. How much will it cost to make myself bankrupt?**
- 5. Where is the bankruptcy order made?**
- 6. What will happen at Court?**
- 7. Who will deal with my bankruptcy?**
- 8. What are my duties as a bankrupt?**
- 9. When will my bankruptcy end?**
- 10. Where can I get more information?**
- 11. What additional help is available for users with a disability?**

This leaflet also contains an explanation of some of the terms used in bankruptcy (Annex A) and gives general information on how and where to apply for your own bankruptcy.

Bankruptcy is a serious matter. You do not necessarily have to become bankrupt just because you are in debt. Other options, as set out in this leaflet, may be more suitable for you.

1. Where can I get advice about bankruptcy?

Before you take any action to apply for your own bankruptcy, you should get your own legal or financial advice about bankruptcy and the other options available to you. The Insolvency Service and the High Court cannot advise you on specific insolvency problems; for example, whether you should go bankrupt or your company should go into liquidation, or whether you should look at alternatives. You should get independent advice. You may consult a Citizen's Advice Bureau, a solicitor, a qualified accountant, an authorised insolvency practitioner or a reputable financial advisor.

A list of authorised insolvency practitioners is available from our webpage www.insolvencyservice.detini.gov.uk, where you will also find a number of other useful site links. You can also obtain a copy of the list by writing to us at:

Insolvency Practitioner Unit
The Insolvency Service
Fermanagh House
Ormeau Avenue
BELFAST
BT2 8NJ
Or e-mail: insolvency@detini.gov.uk

Our website also provides a link to Citizens Advice Bureaux website, an organisation which may be in a position to offer advice to you in respect of any debt problems.

Alternatively you may find details of your local Citizens Advice Bureau in the telephone book under the heading "Citizens Advice Bureaux".

The important thing is to take advice at the earliest possible opportunity – if you leave it too late you may find that professional advisors cannot help you consider some of the alternatives to bankruptcy as matters have gone too far.

2. What are the alternatives to bankruptcy?

The alternatives to bankruptcy are:

- Informal arrangement - You could consider writing to all your creditors to see if you can reach a compromise. Include a timetable of when you will repay them.
- Individual voluntary arrangement - This is a formal version of the previously described arrangement. You would need to apply to the Court with the help of an authorised insolvency practitioner. He or she would supervise the arrangement and pay your creditors in line with the accepted proposals.
- Administration orders - If one or more of your creditors has a court judgment against you and if your total debts are £5,000 or less, the Enforcements of Judgements Office (EJO) could make an administration order. Under the administration order, you make regular

payments to the EJO, to pay towards your creditors. While you are paying the administration order, your creditors can't take any further action against you to get their money, without asking the EJO first. Also, you will not have to pay any interest on your debts. You will have to pay a fee for an administration order, but this will be added to the money you already owe and not charged separately.

Further details on these options and the effects of bankruptcy are given in The Insolvency Service publication – Guide to Bankruptcy.

3. How do I petition for my bankruptcy?

If you decide that bankruptcy is the best option available to you there are a number of forms that you need to complete. You can get these forms, free of charge, from the Bankruptcy and Chancery Division of the High Court in Belfast.

- The petition (Insolvency Rules (NI) 1991 form 6.30) - this form is your request to the Court for you to be made bankrupt and includes the reasons for your request.
- The statement of affairs (Insolvency Rules (NI) 1991 form 6.31) - this form asks you to list all your assets (anything that belongs to you that may be used to pay your debts) and all your debts, including the names and addresses of the creditors and the amount you owe each one. When you have completed this form you will be asked to make a sworn statement as to its accuracy and completeness before an officer of the court or a solicitor. It is therefore vital that you make a full disclosure of your assets and debts.

If you are, or were, running a business in partnership (even if there is no formal partnership agreement) and all the partners want to be made bankrupt, you will need different petition and statement of affairs forms. These are available from the High Court.

You should complete the petition and statement of affairs forms in capital letters using black ink. While Court Officials can advise you on procedures, give you the forms you need and help you fill them in, they cannot give you legal advice.

4. How much will it cost to make myself bankrupt?

There are three fees that you will have to pay when you take your petition and statement of affairs to the Court:

- The deposit of £310 towards the costs of administering your bankruptcy and is paid to the Department of Enterprise, Trade and Investment. The deposit is payable in all cases and payment may be made in cash or postal orders, or by a cheque from a building society, bank or solicitor. Cheques should be made payable to the "Official Receiver". Personal cheques will not be accepted.

- The court fee of £115. This fee may be paid in cash or by cheque or postal order made payable to “Supreme Court Fees Account” In some circumstances the court may waive this fee; for example, if you are on Income Support. If you are not sure whether you qualify for a reduction in the fee or whether you are exempt from paying the fee, court staff will be able to advise you.
- The fee payable to a solicitor before whom you swear the contents of your statement of affairs. You should expect to pay around £7 for this service.

If you are a married couple and you are both applying for bankruptcy, you will each have to pay separate fees. If you were in business as a partnership, each partner will have to pay separate fees, unless all the partners apply for a joint bankruptcy petition under the Insolvent Partnerships Order (Northern Ireland) 1995 (Form 16). Form 16 is available from the court.

5. Where is the bankruptcy order made?

Bankruptcy petitions are presented at the High Court in Belfast.

Once the bankruptcy order has been made, it is advertised in “The Belfast Gazette” (an official publication which contains legal notices) and in the Belfast Telegraph. In addition the Official Receiver will give written notice of the order to a number of organisations.

6. What will happen at Court?

The Court will either hear your petition straight away or arrange a time for the court to consider it.

At the hearing the Court can do one of 4 things:

- Stay (delay) the proceedings - often because the court needs further information before it can decide whether to make a bankruptcy order.
- Dismiss the petition - perhaps because an administration order would be more appropriate.
- Appoint an insolvency practitioner - if the Court thinks an individual voluntary arrangement would be appropriate. This will only be possible if your assets are more than £4,000; your unsecured debts are less than £40,000; and you have not been bankrupt and have not made an individual voluntary arrangement in the previous 5 years. If you do not wish to enter into such an arrangement, you should inform the Court.
- Make a bankruptcy order - The effect of the bankruptcy order, and the restrictions it places on you, are explained in The Insolvency Service publication 'Guide to Bankruptcy'. You will become bankrupt the moment the order is made by the court.

7. Who will deal with my bankruptcy?

The Official Receiver, who is a civil servant in The Insolvency Service and an officer of the Court, will be responsible for administering your bankruptcy and protecting your assets from the date of the bankruptcy order. He will act as your trustee in bankruptcy unless the Court appoints an insolvency practitioner to take this role. The trustee in bankruptcy is responsible for dealing with your debts incurred before the date of your bankruptcy. The Official Receiver must also report to the Court any matters which indicate that you may have committed criminal offences in connection with your bankruptcy.

Further information is available in The Insolvency Service publication - 'What happens when you are interviewed by the OR?'.

8. What are my duties as a bankrupt?

When a bankruptcy order has been made against you, you must do all the following things:

- Provide information about your financial affairs to the Official Receiver. This will usually be done by telephone or at an interview at the Official Receiver's Office. Do not wait for the Official Receiver to contact you – you should contact him as soon as possible once the bankruptcy order has been made.
- Collect and hand over your assets to the Official Receiver, with all your account books, records, bank statements, insurance policies and other papers relating to your assets and debts.
- Notify your trustee or the Official Receiver about any assets and increases in income you receive during your bankruptcy.
- Stop using your bank and building society accounts, credit cards and similar accounts straight away.
- Not get credit of £500 or more from any person without first telling them that you are a bankrupt.
- Not make payments direct to your creditors for money that you owed before the bankruptcy order was made (you should however continue to pay such things as rent or mortgage on your home or for current supplies of electricity or gas).

If you do not co-operate with your trustee in bankruptcy, you could be arrested.

9. When will my bankruptcy end?

Generally you will be automatically freed from bankruptcy (known as 'discharged') after a maximum of 12 months. This period will be shorter if the Official Receiver concludes his enquiries into your affairs sooner and files a notice in Court. You will automatically become free from bankruptcy if the Court annuls (cancels) the bankruptcy order. This would normally be where your debts and the fees and expenses of the bankruptcy proceedings have

been paid in full, or where the bankruptcy order should not have been made. However, in some cases your discharge could be suspended (postponed).

10. Where can I get more information?

For more information, refer to The Insolvency Service publication - 'Guide to Bankruptcy'. For further copies of any Insolvency Service publications on bankruptcy, please contact the Official Receiver's office. You can obtain further copies of this publication from our website:

www.insolvencyservice.detini.gov.uk

11. What additional help is available for users with a disability?

If a disability makes going to Court or communicating difficult for you, you should contact the High Court at 028 9023 5111 to explain your circumstances. The Court can provide limited car parking facilities and ramped access and lift facilities can accommodate wheelchair users. In certain circumstances facilities can also be made available for the visually impaired or those with hearing disabilities.

If you need to contact this office and have difficulty in operating a telephone, a textphone facility is available at 028 9052 9304.

Copies of this leaflet are also available, upon your request, in large print format from the Insolvency Service. Please ask any of our staff for a copy or contact us at (028) 90251441.

Insolvency Terms

ANNEX A

Bankruptcy order - A court order making you bankrupt.

Bankruptcy petition - A request made (by you as a debtor or one of your creditors) to the court for you to be made bankrupt, and giving the reasons why.

Creditor - someone you owe money to.

Debtor - someone who owes you money.

Debts - the money you owe.

Insolvency practitioner - an authorised person who specialises in insolvency, usually an accountant or solicitor. They are authorised either by the Department of Enterprise, Trade and Investment or by one of a number of recognised professional bodies.

Trustee - The trustee in bankruptcy is either the Official Receiver or an insolvency practitioner who takes control of your assets. The trustee's main duties are to sell these assets and share the money out among your creditors.

Unsecured creditor - A creditor who does not hold security (such as a mortgage) for the money you owe.

Unsecured debt - a debt owed to an unsecured creditor.

This leaflet provides general information only. Whilst every effort has been made to ensure that the information is accurate, it is not a full and authoritative statement of the law and you should not rely on it as such. The Insolvency Service cannot accept responsibility for any errors or omissions whether as a result of negligence or otherwise. The Insolvency Service cannot provide legal advice. You are advised to seek professional advice about the application of the law to yourself or your business.