



Department for the
Economy
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An Roinn
Geilleagair

Insolvency Service

Guidance

Can my Bankruptcy be cancelled?

January 2018

This leaflet covers the questions you are most likely to want answered on how the court may annul (cancel) your bankruptcy order.

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WHAT IS THE ANNULMENT OF A BANKRUPTCY ORDER?

It is a procedure that cancels your bankruptcy order. An order of annulment can only be made by the High Court.

WHEN CAN I APPLY FOR AN ANNULMENT?

You can apply for an annulment at any time if:

- the bankruptcy order should not have been made, for example because the proper steps were not taken when obtaining the order; or
- all your bankruptcy debts and the fees and expenses of the bankruptcy proceedings have been either paid in full or secured (guaranteed) to the satisfaction of the Court; or
- you have reached an agreement called an “individual voluntary arrangement” with your creditors to repay all or part of your debts. There is more information about voluntary arrangements in our leaflets "Alternatives to Bankruptcy" and "In Debt? Dealing with your creditors."

HOW DO I APPLY FOR AN ANNULMENT?

If the bankruptcy order should not have been made (application under Article 256(1)(a) of the Insolvency (Northern Ireland) Order 1989), these are the steps:

- Get an application form from the High Court.
- Make an affidavit (a written statement of the relevant facts that is sworn on oath or affirmed, usually before a solicitor) saying why the bankruptcy order should not have been made.
- Send or take to the Court the completed form and affidavit. The Court will then set a date to hear your application, and you should attend the hearing.
- Before the hearing: you must notify the Official Receiver, the person who petitioned for your bankruptcy and the trustee (if an insolvency practitioner has been appointed as trustee in place of the Official Receiver) of the date, time and place of the hearing. You should do this in enough time for them to attend the hearing. At the same time, you should send each of them copies of your application form and affidavit.
- Soon after the hearing: the fees and expenses of the bankruptcy will have to be paid. The Court will decide who should pay them when it considers your application.

If all the bankruptcy debts and fees and expenses have been paid, or security has been given (application under Article 256(1)(b) of the Insolvency (Northern Ireland) Order 1989), these are the steps:

- Get an application form from the High Court.
- Make an affidavit setting out details of your assets and debts at the date of the bankruptcy order and details of your payments made or how you have secured payment of the debts. You should note that you may not use your personal assets as they now belong to your bankruptcy estate, so you must use third party funds to pay all debts in full. If you have already been discharged from your bankruptcy you can use any money that is yours.
- Send or take the form and affidavit to the Court. The Court will then set a date to hear your application, which you should attend.
- You must notify the Official Receiver and the trustee of the date, time and place of the hearing. You should do this at least 28 days before the hearing. You should also send copies of your application form and affidavit to the Official Receiver and the trustee.
- The Official Receiver or the trustee will send a report to the Court to confirm that your debts have been paid or secured. The report may also comment on your conduct in the bankruptcy.

If your creditors have agreed to an individual voluntary arrangement (application under Article 235 of the Insolvency (Northern Ireland) Order 1989), these are the steps:

- The insolvency practitioner nominated to deal with your case will call a meeting of your creditors.
- If your creditors agree to your offer to pay them, you can apply to the Court for an annulment. This application can be made 28 days after the chairman of the meeting of creditors has reported the results of the meeting to the Court.

You should make your application using the same procedure as applications where the bankruptcy order should not have been made. The only difference is that your affidavit should state that you are applying on the grounds that your creditors have approved a voluntary arrangement.

If your creditors have agreed to a fast-track voluntary arrangement (application under Article 237D of the Insolvency (Northern Ireland) Order 1989), these are the steps:

- You must nominate the Official Receiver to deal with your proposal for a fast-track voluntary arrangement. Your creditors will be invited to consider your proposal if the Official Receiver believes it has a reasonable prospect of being approved and implemented.
- If your creditors agree to your proposal, the Official Receiver will report that decision to Court and, 5-7 weeks later, will apply for the bankruptcy order to be annulled.

IF I APPLY FOR AN ANNULMENT, DO I HAVE TO KEEP MY APPOINTMENT TO SEE THE OFFICIAL RECEIVER?

Yes. You should go to the Official Receiver's office and provide any information you are asked for. The Court might not annul the bankruptcy order until the Official Receiver confirms that you have done so.

CAN I STOP THE BANKRUPTCY ORDER BEING ADVERTISED?

Yes, but you must act immediately. If you have applied, or you think you will be able to apply, for an annulment, you may be able to apply to the Court for a "stay of advertisement". But this should be done at once. You should telephone the court and state that you wish to apply for a stay of advertisement of the bankruptcy order. You should also inform the Official Receiver that you are making this application.

The Official Receiver must advertise the bankruptcy order in a newspaper and the 'Belfast Gazette' (an official publication which contains legal notices).

These actions can only be stopped by a Court order. Please see the information on pages 7-9 about public records and notifications of your bankruptcy.

WHAT IS THE EFFECT OF THE ANNULMENT OF A BANKRUPTCY ORDER?

An annulment has the effect in law that the bankruptcy order was never made. You will revert to your pre-bankruptcy status. Disposals of your property by the Official Receiver and the trustee will remain valid and will not be reversed. Any other assets will be returned. You will be liable for any of your debts that have not been paid in the bankruptcy.

The following paragraphs explain what will happen to public records of your bankruptcy:

- **The Bankruptcy Register for Northern Ireland** is maintained by the Bankruptcy and Companies Office at the High Court and contains records of all bankruptcies in Northern Ireland during the last ten years. There is a link to the register on the Northern Ireland Courts and Tribunals website at www.justice-ni.gov.uk/topics/courts-and-tribunals

For further information, a leaflet called "The Insolvency Registers" is available from the Insolvency Service website at www.economy-ni.gov.uk/topics/insolvency-service

- **Land Registry/Registry of Deeds** - bankruptcy petitions and orders are registered at the Registry of Deeds against your name and may be recorded against documents of title in the Land Registry. If your petition is dismissed or you are discharged from bankruptcy you can vacate your registration in the Registry of Deeds by completing Form 11 (for the petition) or form 13 (for the order) of the Registration of Deeds Regulations (Northern Ireland) 1997 and lodging it at the Registry of Deeds. There will be a charge for this.

If notice of the presentation of the petition or the bankruptcy order has been given to the Land Registry the Order of Annulment should include provision permitting cancellation of any entry in the Land Registry or notice of the petition or any bankruptcy inhibition against your title as the registered owner of the land. You should take a copy of the Order to the Land Registry to have the cancellation made.

- **Credit reference agencies** - the Official Receiver does not send any form of notice to credit reference agencies. The agencies pick up information from other sources such as the Bankruptcy Register, advertisements of bankruptcies in newspapers, 'The Belfast Gazette' and the Enforcement of Judgments Office.

It is your responsibility to have details of the bankruptcy order removed from your credit file if your file is not updated. If your bankruptcy order was annulled because your creditors have approved an individual voluntary arrangement, details of the arrangement will go on your credit file when the credit reference agencies become aware of it.

For further information, a leaflet called 'Credit Explained' is produced by the Information Commissioner's Office. A copy of this leaflet is available from the Information Commissioner's Office website at www.ico.org.uk/ or from their publications orderline (telephone 0303 123 1113).

- **Notifications** - even if you have obtained a stay of advertisement, the Official Receiver may have needed to notify some of your creditors about the bankruptcy order. If the Official Receiver has informed anyone about the order he will also notify them of the annulment.

WHAT IS “DISCHARGE FROM BANKRUPTCY”?

It is a process that frees you from the restrictions of bankruptcy and releases you from most of the debts you owed at the date the bankruptcy order was made against you. (There is a publication "When will my bankruptcy end?" about discharge from bankruptcy available from the Insolvency Service website at www.economy-ni.gov.uk/topics/insolvency-service)

This booklet provides general information only. Every effort has been made to ensure that the information is accurate, but 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 any responsibility for any errors or omissions as a result of negligence or otherwise.

HOW DO I GET MORE INFORMATION?

This publication is for general guidance only. If you have further questions about the procedures involved in obtaining an annulment, you should ask your professional adviser or the trustee handling your bankruptcy.

Please note that the Insolvency Service cannot provide legal or financial advice. You should seek this from a citizens' advice bureau, a solicitor, a qualified accountant, an authorised insolvency practitioner or a reputable financial adviser or advice centre.

You can get more information about bankruptcy in the following Insolvency Service publications:

- Guide To Bankruptcy
- When will my bankruptcy end?

You can obtain copies of these publications from the Insolvency Service website: www.economy-ni.gov.uk/topics/insolvency-service

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