

Insolvency Service

Guidance

How to petition for your own bankruptcy

January 2018

Questions you are most likely to ask about being in debt and making yourself bankrupt

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This document is also available in an accessible format if required i.e. Braille, large print, audio cassette or in a minority ethnic language

Contents

This leaflet covers the questions you are most likely to ask about being in debt and making yourself bankrupt, and explains some of the terms used in bankruptcy (see page xx). It gives information on how and where to apply for your own bankruptcy. If a creditor is seeking to make you bankrupt, or you want more information about bankruptcy, you should refer to the booklet 'A Guide to Bankruptcy' (see page xx for details of where you can get this booklet). Bankruptcy is a serious matter. You do not have to become bankrupt just because you are in debt. Other options may be more suitable for you.

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How to petition for your own bankruptcy

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 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 solicitor, a qualified accountant, an authorised insolvency practitioner or a reputable financial advisor. Or you could consult one or more of the organisations listed in Annex A. But please don't leave it too late or you may find that professional advisors cannot help you because matters have gone too far.

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. They would supervise the arrangement and pay your creditors in line with the accepted proposals.
- **Administration order** - If one or more of your creditors has a court judgment against you and if your total debts are £5,000 or less, the Enforcement of Judgments Office (EJO) could make an administration order. Under the administration order, you make regular payments to the EJO, which will then pay 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.

- **Debt relief order (DRO)** - if you are unable to pay your debts, owe less than £50,000, have assets worth less than £2,000 and have less than £75 per month disposable income, after paying normal living expenses, you may be able to apply for a DRO. DROs do not involve the courts. They are run by the Insolvency Service in partnership with skilled debt advisers, called approved intermediaries, who will help you apply to the Insolvency Service for a DRO.

Further details on these options and the effects of bankruptcy are given in the Insolvency Service booklets - 'Alternatives to Bankruptcy' and 'Guide to Debt Relief Orders'.

HOW DO I PETITION FOR MY BANKRUPTCY?

First, you will need to complete the following forms, which you can print off from the Insolvency Service's website at, www.economy-ni.gov.uk/topics/insolvency-service

- 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 shows 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. The form contains an affidavit which you will have to swear before an officer of the court or a solicitor to verify the accuracy and completeness of your statement of affairs.

Alternatively there is a facility on the Insolvency Service website to complete the forms online and print them off.

If you cannot print the forms off from our website or complete the online versions they are available free of charge from the Bankruptcy and Companies Office at the High Court in Belfast or you could purchase them from a legal stationer.

If you are completing the petition and statement of affairs forms by hand you should do so in capital letters, using black ink. Court staff can only advise you on the court procedure, and give you the forms you need. They cannot help you fill the forms in, or provide legal advice.

Your next step will be to pay a deposit towards the cost of administering your bankruptcy to the Department for the Economy. This deposit must be paid 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. Alternatively you can pay the deposit on-line through the Insolvency Service website using a credit/debit card.

You will then need to take the completed forms to the Bankruptcy and Companies Office at the High Court, along with,

- 4 copies of your petition (5 if you are a solicitor)
- 1 copy of your statement of affairs
- The receipt for the deposit paid to the Department for the Economy.

You will also need to have with you the money to pay a fee which is charged on a petition for bankruptcy.

NB: 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 Bankruptcy and Companies Office at the High Court or you can purchase them from a legal stationer.

HOW MUCH WILL IT COST TO MAKE MYSELF BANKRUPT?

- The deposit payable to the Department for the Economy is £525.
- You may have to pay a fee when you take your petition and statement of affairs to court

The court fee is £137 and may be paid in cash or postal orders, or by a cheque from a building society, bank or solicitor. Cheques should be made payable to "Northern Ireland Courts and Tribunals Service". Personal cheques will not be accepted. 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 for you to swear your statement of affairs affidavit. You should expect to pay around £7.

If you are a married couple and you are both applying for bankruptcy, you will each have to pay a separate deposit and 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. Forms for this can be obtained from the Bankruptcy and Companies Office at the High Court or you can purchase them from a legal stationer.

WHERE IS THE HIGH COURT?

All petitions for bankruptcy in Northern Ireland must be presented at the Bankruptcy and Companies Office of the High Court. The address is,
Royal Courts of Justice,
Chichester Street
Belfast, BT1 3JF.

The telephone number is 028 9072 4704/4707.

WHAT WILL HAPPEN AT THE HIGH COURT?

The Court will either hear your petition straight away or arrange a time for the Court to consider it. If English is not your first language and you need an interpreter, the Court will not be able to help you find one. You will have to do this yourself and pay the interpreter's fees.

At the hearing the Court can do one of 5 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.
- Make an order referring you to an approved intermediary if it believed that a DRO may be appropriate. If the court does this it will send the order of referral and copies of your bankruptcy petition and statement of affairs to you, as soon as it is able to do so, so that you can take these to an approved intermediary. Approved intermediaries work for one of six competent authorities. You can find details of the competent authorities listed on the Insolvency Service website.
- Appoint an insolvency practitioner - if the court thinks an individual voluntary arrangement would be appropriate. 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 booklet 'Guide to Bankruptcy'. You will become bankrupt the moment the order is made by the Court.

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 looking after your financial affairs for the period before and during 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 leaflet - 'What happens when you are interviewed by the Official Receiver?' (see page 11 for details about where to get this leaflet.)

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. You will need to contact the Official Receiver as soon as possible once the bankruptcy order has been made they will ask you questions over the telephone. You may also have to attend an interview at the Official Receiver's office at a later date.
- 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.
- Tell your trustee in bankruptcy 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.

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

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).

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. Publications are also available on our website www.economy-ni.gov.uk/topics/insolvency-service

You can also contact the Insolvency Enquiry Line for general enquiries on insolvency matters on: (028) 9054 8531 - between 8.00am and 5.00pm; or email: insolvency@economy-ni.gov.uk

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.

You can get more copies of this booklet from,
The Insolvency Service
Adelaide House
Adelaide Street
Belfast
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Tel: (028) 9054 8531

Fax: (028) 9054 8555

E-mail: insolvency@economy-ni.gov.uk

Publications are also available on our website www.economy-ni.gov.uk/topics/insolvency-service

**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 Northern Ireland Courts and Tribunals Service at 028 9032 8594 and ask for the Disability Liaison Officer as they may be able to help. 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 using 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) 9054 8531.

INSOLVENCY TERMS

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.

Annex A

ORGANISATIONS THAT MAY HELP

We cannot give advice on specific insolvency problems or redundancy-related issues, for example whether you should go bankrupt, whether your company should go into liquidation, or whether you should look at alternative insolvency procedures.

A list of organisations that provide free advice is set out below. Many other organisations can also advise on insolvency and redundancy-related matters, but may charge a fee for their services. You should always check what this fee will be when you contact them.

Alternatively, you may prefer to seek independent legal advice.

The Insolvency Service cannot accept any responsibility for the information, advice or other services provided by other organisations.

Organisation	Who they are	Contact details
Advice NI	Advice NI is a registered charity that offers free independent, confidential and impartial advice. We are also an umbrella organisation for 62 independent advice centres across Northern Ireland.	Telephone: 028 90 645919 Email: info@adviceni.net Website: www.adviceni.net
DebtAdviceNI	DebtAdviceNI is a free, confidential and independent debt and money advice helpline. The service is available to anyone living in Northern Ireland	Helpline: 0800 0430550 Website: www.debtadvicenorthernireland.co.uk email: info@debtadvicenorthernireland.co.uk
Citizens Advice	Citizens Advice is a registered charity that offers free, independent and confidential advice through 23 local offices in Northern Ireland.	Helpline: 028 90231120 Website: www.citizensadvice.co.uk which contains a directory of local CABs.

Organisation	Who they are	Contact details
Consumer Credit Counselling Service (CCCS) - stepchange	The CCCS is a registered charity dedicated to providing free, confidential counselling and money-management help to families and individuals in financial distress. They provide counselling on budgeting; advice on the wise use of credit; and, where appropriate, achievable plans to repay debts.	Helpline: 0800 027 4990 A list of contact numbers can be found on their website. Website: www.stepchange.org
Consumerline	Consumerline is a telephone and online advice service which offers information and advice on consumer related issues. It is run by the Trading Standards Service in Northern Ireland.	Helpline: 0300 123 62 62 Opening hours: Monday to Friday 9am–4pm. Website: www.nidirect.gov.uk/consumentline
The Labour Relations Agency	The Labour Relations Agency is a public body funded by taxpayers. It offers free help and information on work-related issues.	Helpline: 028 90321442 Opening hours: Monday to Friday 9am–5pm. Website: www.lra.org.uk .
Law Society for Northern Ireland	<p>The Law Society is the representative and regulatory body for solicitors in Northern Ireland.</p> <p>The Society's website has an online directory which allows users to search for those solicitors who undertake work in relation to debt management, insolvency and money issues. The "Find a Solicitor" allows the user to search by firm name, category and by location providing the contact details for solicitors offering sound legal advice.</p> <p>The website also contains a list of specialist insolvency practitioners.</p> <p>Please note that the Law Society cannot offer legal advice.</p>	<p>Helpline: 028 90321442</p> <p>Opening hours: Monday to Friday 9am–5pm.</p> <p>Website: www.lawsoc-ni.org</p>
nibusinessinfo.co.uk	nibusinessinfo.co.uk provides a free offered by Invest Northern Ireland, it is the official online channel for business advice and guidance in Northern Ireland.	nibusinessinfo.co.uk Bedford Square Belfast BT2 7ES Tel: 08001814422 email: info@nibusiness.co.uk



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