

Insolvency Service

Guidance

What will happen to my motor vehicle?

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This publication covers the questions you are most likely to ask about your motor vehicle if you go bankrupt or have a debt relief order.

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ethnic language

Contents

What will happen to my motor vehicle?

Page 5

If I go bankrupt will I be able to keep my vehicle?

Page 5

How does the Official Receiver decide whether I can keep my vehicle?

Page 6

What does the Official Receiver consider when deciding whether my vehicle is exempt property?

Page 6

I believe my vehicle is exempt property and is worth a lot of money. Will I still be able to keep it?

Page 7

How much would I be allowed for a reasonable replacement?

Page 7

What happens if my vehicle is not exempt property?

Page 7

If my vehicle is not exempt property and is not worth anything, will it still be taken?

Page 8

What will happen to any personalised number plate I have?

Page 8

I am buying a vehicle on a finance agreement. What will happen to this agreement?

Page 8

What if someone has made payments to the finance company on my behalf?

Page 9

If my vehicle is part of the Motability scheme, will I be able to keep it?

Page 9

I am registered as the current keeper of a vehicle, but I did not buy it. Will anything happen to this vehicle if I go bankrupt?

Page 9

What will happen to my motor vehicle?

This information covers the questions you are most likely to ask about your motor vehicle – a car, van, motorbike or any kind of transport powered by an engine – if you go bankrupt or have a debt relief order.

For more about bankruptcy or debt relief orders, please see 'A Guide to Bankruptcy' and 'Guide to Debt Relief Orders', which you can find on our website: www.economy-ni.gov.uk

IF I GO BANKRUPT WILL I BE ABLE TO KEEP MY VEHICLE?

Your motor vehicle is an asset. The Official Receiver or the trustee (if an insolvency practitioner has been appointed in place of the Official Receiver) can sell your vehicle to help pay your bankruptcy debts.

You can ask the Official Receiver to let you keep your vehicle. The Official Receiver will look at all the facts before deciding whether you will be able to keep it. Each case is different.

HOW DOES THE OFFICIAL RECEIVER DECIDE WHETHER I CAN KEEP MY VEHICLE?

The Official Receiver/trustee will have to decide whether it is an asset in your bankruptcy or if it is exempt property. Exempt property is something you own that cannot be claimed as one of your assets and sold to help pay your creditors (people you owe money to).

For your vehicle to be exempted, you will have to show the Official Receiver that it is necessary:

- for your personal use in your employment, business or vocation; or
- to meet a basic domestic need of you and your family.

WHAT DOES THE OFFICIAL RECEIVER CONSIDER WHEN DECIDING WHETHER MY VEHICLE IS EXEMPT PROPERTY?

a) Is it used for work?

The Official Receiver looks at whether:

- you use the vehicle in your work;
- you would find it difficult to travel to and from your place of work without your own vehicle because there is no other kind of transport available, such as a bus or train service;
- you would find it harder to get a job (including finding work if you are self-employed) without using the vehicle, even though you may not be working at the date of the bankruptcy order.

'Vocation' can include being a full-time carer of a disabled relative or friend, where you would use your vehicle in connection with that role. If you receive a carer's allowance for doing this, you could use an official letter or statement about the allowance as evidence that you are following a vocation as a carer.

b) Is it needed to meet a basic domestic need of you and your family?

The Official Receiver will consider these issues:

- Does the vehicle meet a genuine need rather than being used simply for convenience?
- If you have a disability, the Official Receiver must be satisfied that the vehicle gives you a level of independent living that is only possible because you have your own vehicle. For example, it may be the most practical way for you to go to medical appointments or get routine care related to your disability.
- If you say you need the vehicle to take children to and from school, you will need to show there is no alternative to using your own vehicle, and the distance to travel means that walking or cycling is not practical. If you live in a rural area, it is not enough to say a motor vehicle is exempt property just because your child's school is a long way from home.

The Official Receiver uses his discretion and consider the facts on a case-by-case basis.

For more about exempt property, please see 'A Guide to Bankruptcy', which you can find on our website: www.economy-ni.gov.uk.

I BELIEVE MY VEHICLE IS EXEMPT PROPERTY AND IS WORTH A LOT OF MONEY. WILL I STILL BE ABLE TO KEEP IT?

Even if the Official Receiver agrees that a vehicle is essential, he may sell it and provide you with a suitable cheaper alternative. If your vehicle is worth more than £2,500, the Official Receiver is likely to consider doing this.

If this does happen, the Official Receiver must provide the money for the replacement vehicle from the sale proceeds. He will do this by a direct payment to whoever is selling the vehicle to you, or by giving you cash to buy the replacement. If you are given cash, you will have to prove to the Official Receiver, within 21 days, that you have bought a replacement vehicle.

It may be possible for a third party to pay the Official Receiver the net value of the vehicle to avoid the cost of putting it up for sale and finding a reasonable replacement. The net value would be the amount the Official Receiver thought the car was worth, less the amount he would have to pay you for a replacement.

HOW MUCH WOULD I BE ALLOWED FOR A REASONABLE REPLACEMENT?

£2,000 is the current guideline maximum allowance for a replacement vehicle.

If you believe you need a more expensive vehicle, you would need to explain why.

WHAT HAPPENS IF MY VEHICLE IS NOT EXEMPT PROPERTY?

If your vehicle is not exempt, it becomes the property of the Official Receiver, who can sell it to pay your creditors.

The Official Receiver will use a car-price guide to value the vehicle. For certain vehicles, such as a vintage car or specialist vehicle, the Official Receiver might ask an agent to find out the value or seek specialist advice.

With a guideline value for your vehicle, the Official Receiver may ask if you are interested in keeping it. This may be possible if you:

- can arrange for a third party to pay the money to transfer the vehicle either to them or back to you; and
- can provide a current insurance certificate; and
- can provide the vehicle's registration document; and
- sign a certificate to say the vehicle is, to the best of your knowledge, in a roadworthy condition.

The Official Receiver will not accept a personal cheque, so payment should be in cash, a banker's draft or a building society cheque.

IF MY VEHICLE IS NOT EXEMPT PROPERTY AND IS NOT WORTH ANYTHING, WILL IT STILL BE TAKEN?

If your vehicle has no apparent resale value, perhaps because of its age, it might be possible to agree a nominal (ie, token) sale price, plus any value left in the road fund licence.

If your vehicle is not roadworthy, the Official Receiver may sell it to you for a nominal fee. You would have to sign a declaration that the vehicle is not roadworthy and that you will not use or park the vehicle on the public highway until it is roadworthy and has a valid MOT certificate.

If you do not wish to keep the vehicle, the Official Receiver will arrange for its disposal, either by his agent or by a company that recycles vehicles that have reached the end of their useful life.

WHAT WILL HAPPEN TO ANY PERSONALISED NUMBER PLATE I HAVE?

The Official Receiver will have the registration number valued.

If you are bankrupt and would like it to be transferred back to you, the Official Receiver may consider an offer from you or a third party to buy it. A third party must provide the money for this.

If the number is for a vehicle that belonged to a company in liquidation, the Official Receiver may consider a full-value offer from a director of the company for the registration mark or the company vehicle, or both.

I AM BUYING A VEHICLE ON A FINANCE AGREEMENT. WHAT WILL HAPPEN TO THIS AGREEMENT?

A finance agreement can be a hire purchase, conditional sale, or leasing agreement. Under these agreements you do not own the vehicle. The terms usually give the finance company (the hiring owner) the right to end the agreement in certain circumstances. The hiring owner can usually take back the vehicle if a bankruptcy or winding-up order is made.

The Official Receiver will find out from the finance company what kind of agreement it is, the amount owing under the agreement, and the settlement figure.

Depending on the value of the vehicle, the Official Receiver can then decide whether there would be any benefit to your bankruptcy estate in selling it. If there would be no benefit, the Official Receiver will ask the hiring owner to collect the vehicle as soon as possible.

If the payments under the agreement are up to date, the finance company might agree to another person taking over the agreement.

If you simply borrowed the money from a bank or finance company to buy the vehicle, they are unlikely to have any rights to take back the vehicle.

WHAT IF SOMEONE HAS MADE PAYMENTS TO THE FINANCE COMPANY ON MY BEHALF?

If someone else has paid instalments on your behalf, it does not mean they have any rights of ownership to the vehicle. The Official Receiver would treat the repayments as a loan. The person who has made the repayments may make a claim in your bankruptcy. They might ask the finance company if they can take over the agreement.

IF MY VEHICLE IS PART OF THE MOTABILITY SCHEME, WILL I BE ABLE TO KEEP IT?

If you took on your vehicle under a contract hire variable lease agreement, the Official Receiver or trustee has no interest in the vehicle and cannot object or consent to you keeping it.

If you are buying your Motability vehicle under a hire purchase agreement, the agreement works in the same way as any hire purchase agreement, but depends on you continuing to receive the relevant benefit. It is for Motability to decide whether they wish to end the agreement because you have been made bankrupt.

If Motability allow you to keep the vehicle, you are responsible for continuing to make payments from your higher-rate disability living allowance.

I AM REGISTERED AS THE CURRENT KEEPER OF A VEHICLE, BUT I DID NOT BUY IT. WILL ANYTHING HAPPEN TO THIS VEHICLE IF I GO BANKRUPT?

A vehicle registration document showing someone's name does not prove ownership, only that the person is the registered keeper and responsible for the vehicle. The Official Receiver will usually regard the registered keeper as the owner, unless they are given proof that someone else owns the vehicle.

The Official Receiver will ask for evidence of where the money to buy the vehicle came from, or details of any contract under which it was bought.

If I have a debt relief order, will I be able to keep my car?

You keep all your assets if you have a debt relief order. You can only apply for a debt relief order if your assets are less than a set limit.

If you own a vehicle and wish to apply for a debt relief order, the vehicle must be either:

- adapted for you because you have a physical impairment that affects your ability to carry out normal day-to-day activities on a long-term basis; or
- worth less than £1,000.

For more about debt relief orders see 'Guide to Debt Relief Orders' available on our website: www.economy-ni.gov.uk

DISCLAIMER

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.

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