

# Insolvency Service

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## Guidance

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# When will my bankruptcy end?

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October 2011

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Information on discharge from bankruptcy

Crown Copyright

**October 2011**

**Insolvency Service**

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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

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the 1990s, the number of people in the world who are illiterate has increased from 1.1 billion to 1.5 billion.

There are many reasons for this. One is that the population of the world is growing so fast that the number of people who are illiterate is increasing. Another reason is that the quality of education is so poor that many people who are literate are unable to read and write. A third reason is that many people who are literate are unable to use their skills in a way that is useful to them.

There are many ways to improve literacy. One way is to provide more schools and teachers. Another way is to improve the quality of education. A third way is to provide more opportunities for people to use their skills in a way that is useful to them.

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# When will my bankruptcy end?

## WHAT IS “DISCHARGE FROM BANKRUPTCY”?

It is a process that takes away the restrictions of bankruptcy and releases you from most of the debts you owed at the date the bankruptcy order was made.

You will normally get your discharge **automatically**, even if no payments have been made to your creditors, you are still making contributions under an income payments order or income payments agreement or some of your assets have not yet been sold.

The Official Receiver can apply to Court for a bankruptcy restrictions order, which will mean that you continue to be subject to restrictions after discharge for the period stated in that order. This will not affect the discharge of your debts. A separate leaflet called Bankruptcy Restrictions Orders is available from the Insolvency Service website: [www.economy-ni.gov.uk](http://www.economy-ni.gov.uk)

## WHEN WILL I BE DISCHARGED?

You will be discharged usually after **12 months**, on the first anniversary of the bankruptcy order, but there are different dates which might apply to you.

If the Official Receiver has concluded his enquiries into your affairs he may file a notice of early discharge in Court. You will be discharged on the date this notice is filed in Court. A copy of the notice will be sent to you so that you will know when you are discharged. For more information see the paragraph on **early discharge** below.

If you **do not co-operate** with the Official Receiver (or the trustee, if an insolvency practitioner has been appointed as trustee in place of the Official Receiver), then the Court may be asked to stop your discharge from taking place. An example would be if you refused to provide information to the Official Receiver or the trustee.

If your discharge has been suspended (stopped) before 27 March 2006, you should contact the Official Receiver for information about how and when you may be discharged from bankruptcy.

## **HOW DO I GET MY DISCHARGE?**

If you are discharged automatically, you do not have to do anything to get your discharge. If you wish, you can get a certificate of discharge. A certificate is not necessary in most cases, but if you need one you should write to the High Court. Do not write sooner than 2 weeks before your discharge date. Give your name, address and court number (to be taken from the latest correspondence about your bankruptcy). The Court may check with the Official Receiver that you are entitled to an automatic discharge. You should receive a certificate confirming your discharge within about 4 weeks.

**A fee of £75 is payable to the Court for issuing a certificate of discharge. Further copies will cost £5 each.**

If you write to the Official Receiver he will provide a letter, at no charge, confirming your date of discharge. You can also ask for the Official Receiver to advertise your discharge, but you will have to pay the costs of this before it is done.

**You will not get your discharge automatically if your discharge period has been suspended**, for example because you have failed to co-operate with the Official Receiver or trustee.

## **EARLY DISCHARGE**

There is **no** automatic right to receive early discharge from bankruptcy.

The Official Receiver will review your file 3 months after the report to your creditors has been issued. This report is issued within 8 weeks of the bankruptcy order. If the Official Receiver considers that there are no further matters in your bankruptcy which require investigation he will begin the early discharge process.

If you do not co-operate with the Official receiver and answer letters as quickly and fully as possible you are unlikely to get an early discharge. If early discharge is appropriate, the Official Receiver will tell your creditors (and your trustee if an insolvency practitioner has been appointed) that he intends to send notice of early discharge to the Court. Your creditors have 28 days in which to lodge any objection to your early discharge. If any objections are received the process will be suspended while the Official Receiver considers if any objections are valid. If an objection causes the Official Receiver to carry out further investigation of your affairs this will stop the early discharge process.

Only if no objections are received, or once any objections have been resolved, will the Official Receiver send notice of early discharge to the Court. You will be sent a copy of the notice stamped by the Court notifying you of your date of discharge. The process of early discharge is unlikely to be completed less than 6 months from the date of the bankruptcy order.

## WHAT IS THE EFFECT OF THE DISCHARGE?

**Your debts** - it is on discharge that you will be released (freed) from most debts that you incurred before the bankruptcy order. The debts you are not freed from include:

- any money owed under family court proceedings for example, for maintenance or Child Maintenance and Enforcement Division payments or arising from any personal injury claims against you, unless the court directs otherwise;
- any court fines or debts arising from fraud or certain other crimes;
- debts you incur after the bankruptcy order;
- all outstanding student loans.

**Your mortgage payments** - please note that secured creditors (lenders who hold security such as a mortgage for the money owed) still have the right to enforce or recover their security if payments are not met.

**Your assets** - any assets that the Official Receiver or the trustee held or claimed during your bankruptcy remain under the control of the Official Receiver or the trustee. **They are not returned to you on discharge.** It may be some time after your discharge before all your assets are dealt with.

If your home has not been dealt with in a certain period, usually 3 years from the date of the bankruptcy order, your interest in it may be returned to you. A separate leaflet called 'What will happen to my home?', which explains this more fully, is available from the Insolvency Service website: [www.economy-ni.gov.uk](http://www.economy-ni.gov.uk)

If you are making payments under an income payments order or income payments agreement you must continue to make these payments even after the date of your discharge.

Please note that, when your trustee makes a payment to your creditors, they may place an advertisement about your bankruptcy in a newspaper asking creditors to submit their claims. If it takes your trustee a long time to deal with an asset, this advertisement may appear several years after the bankruptcy order.

**Your business** - after discharge you can carry on a business without the restrictions that applied during your bankruptcy. You can act as a director of a limited company or be involved in its management (unless you are subject to a separate disqualification order or bankruptcy restrictions order/undertaking).

You will be able to obtain credit without having to mention your bankruptcy (unless you are specifically asked to do so or you are subject to a bankruptcy restrictions order/undertaking) but you will want to ensure that you can repay it.

**Your obligation to co-operate with the Official Receiver and trustee** - you must continue to assist the Official receiver and the trustee, for example by providing any information requested, even after your discharge. If you do not, you could be liable to contempt of court.

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

**The Bankruptcy Register** - '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. The record of your bankruptcy will remain on the register for 3 months after the date of your discharge.

For further information, a leaflet called 'The Insolvency Registers' is available from the Insolvency Service website at [www.economy-ni.gov.uk](http://www.economy-ni.gov.uk)

**Registry of Deeds** - bankruptcy petitions and orders are registered at the Registry of Deeds against your name. 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 of £8.

**Land Registry** - If title to any property of which you were the owner was registered in the Land Registry notice of the presentation of the petition for your bankruptcy may have been registered in the Land Registry folios. Registration of such a notice is effective for 5 years from the date of registration and the Official Receiver or trustee can apply to have it renewed for a further 5 years.

Bankruptcy inhibitions will also have been entered if either the Official Receiver or the trustee notified the Land Registry once your bankruptcy order was made. An Order of Annulment should include provision permitting cancellation of any entry in the Land Registry of 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. You may have to provide separate information to credit reference agencies to amend their records. 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.gov.uk](http://www.ico.gov.uk) or from their Publication Order Line (telephone 08453 091 091).

Frequently asked questions about bankruptcy and the information on credit reference files are available at the following link: [Credit Reference Files](#)

### **WHAT IS "ANNULMENT OF BANKRUPTCY"?**

This is a procedure by which the Court cancels a bankruptcy order it has made. This can happen if it turns out:

- that your bankruptcy order should not have been made; or
- if all the debts, fees and expenses of your bankruptcy have been paid in full; or
- if your creditors accept proposals for settlement under a voluntary arrangement.

A separate leaflet called 'Can my bankruptcy be cancelled?', which explains this more fully, is available from the Insolvency Service website: [www.economy-ni.gov.uk](http://www.economy-ni.gov.uk)

### **HOW DO I GET MORE INFORMATION?**

This leaflet is for general guidance only. If you have further questions about how to obtain your discharge, you should ask your professional adviser or the Official Receiver or trustee handling your bankruptcy. If you are not sure who is acting as trustee, contact the Official Receiver's office. To help in tracing your case, please try to give the name and court reference number. These details will be on the latest correspondence about your bankruptcy.

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

Further information about bankruptcy is available in the following Insolvency Service publications:

Guide To Bankruptcy

Can my bankruptcy be cancelled? Information on annulment of a bankruptcy order

What will happen to my home? Information on your home when bankruptcy occurs

Bankruptcy Restrictions Orders

You can obtain further copies of this booklet from the Insolvency Service website: [www.economy-ni.gov.uk](http://www.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.

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