

Deeds of Arrangement

**A guide for Insolvency
Practitioners**



An Executive Agency within the Department of Trade and Industry

Introduction

After the Insolvency Act 1986 was brought into force, the act of entering into a deed of arrangement could no longer automatically form the basis of a bankruptcy petition and therefore reduced the threat that any dissenting creditor might petition for bankruptcy.

Although Deeds are not used as a means of proposing an arrangement with creditors as frequently as Individual Voluntary Arrangements under the Insolvency Act 1986, they do have the advantage of only requiring the approval of a simple majority of creditors in number and value; and they may in some circumstances be cheaper and simpler as there is no nominee, no report to court and it is not necessary to call a meeting of creditors. On the other hand, the level of protection is much lower - a dissenting creditor is not prevented by the relevant legislation from taking action against the debtor.

Insolvency Practitioners may therefore conclude that a Deed might be an effective means of promoting an arrangement in circumstances where there are minimal assets which do not warrant the cost of calling meetings of creditors and of applications to court necessary to give effect to an Individual Voluntary Arrangement; and where the creditors have also already agreed to the terms of the arrangement and a moratorium on creditors' rights is not essential.

This document is intended only as a guide for the registration of Deeds and not as a full explanation of the law. For further information on the law relating to Deeds reference should be made to:

Deeds of Arrangement Act 1914 - Available from HMSO

Deeds of Arrangement Rules 1925 - Available from HMSO

Registration of Deeds of Arrangement

Registration of Deeds executed in England must take place within 7 days of the execution of the Deed. Where the seventh day falls on a Sunday or bank holiday, registration can take place on the next working day.

If a Deed is executed outside England the 7 days commences from the time when the Deed arrives in England (see provisions of Section 2 of the Deeds of Arrangement Act)

Deeds should be registered with the Registrar at:

The Insolvency Service
Insolvency Practitioners Control Unit
2nd Floor East
Ladywood House
45/46 Stephenson Street
Birmingham
B2 4UZ
Tel 0121 698 4098

**FAILURE TO REGISTER WITHIN 7 DAYS
WILL RESULT IN THE DEED BEING
VOID.**

Documents to be provided for Registration

The following documents are required when registering a Deed

- a) Original Deed with the appropriate stamp duty (currently 50p), plus a sworn 'A' copy and two further copies and all schedules, signed by the debtor and trustee and witnessed.

The additional two copies are required for filing by the Registrar with the Court and the Inland Revenue. If copies are not provided photocopies will be made and a fee will be charged to the person wishing to register the Deed.

- b) Debtor's affidavit (DA6), signed by the debtor detailing the names and addresses of the creditors involved with the Deed, the total estimated amount of the property and liabilities included under the Deed and the amounts payable.
- c) Execution affidavit (DA4), sworn by the debtor and specifying the name, address, and occupation of the debtor, the time of execution and the place or places where his business is carried on.
- d) Certificate by the solicitor of the debtor or the presenter that the copy of the Deed is correct.

Fees for Registration

The following fees will be charged by the Registrar for registering a Deed.

Judicature Fee	£1.50 on original Deed
Debtor's affidavit	£1.10
Execution affidavit	£1.10

Additionally, a fee based upon on the total value of the property recorded in the Deed will be charged on the following scale:

Total Property Value	FEE
	£
Nil	11.00
Nil-£1,000	8.25
£1,000 - £2,500	14.00
£2,500 - £5,000	22.00
Over £5,000	27.50

For example, an arrangement with assets of £3,000 will incur fees of £22.00 plus Judicature, Execution and Debtors affidavit filing fees, making a total fee of £25.70.

Cheques for fees should be made payable to “The Insolvency Service”.

Registrar

The Registrar will enter all details in to the register and will send a copy of the Deed to the relevant Court and also to the Inland Revenue. The original Deed will be sealed and stamped with the date of registration and returned to the Insolvency Practitioner. The sworn ‘A’ copy will be kept by the Registrar.

Access to the Register of Deeds

The register is open for public inspection between the hours of 10am and 4pm at the address given at section 2.

A copy or extract of the register may be made for the appropriate fee.

Alternatively, Deeds can be viewed at the Court at which they have been filed.

Notes for Trustees

The trustee must implement the Deed in accordance with its provisions. It is an offence for the trustee to make payments to creditors which are not made in accordance with the provisions of the Deed, unless such payments are made to a creditor entitled to enforce its claim by distress or would be lawful in a bankruptcy.

The trustee must also provide appropriate security which is filed at Court, unless a majority in number and value of the debtor's creditors dispense with such security. Failure to do so may result in the Deed being declared void and the trustee having committed a criminal offence.

Records to be maintained by the Trustee

The trustee should maintain proper records for the administration of the Deed including trading records (if appropriate under the duties of the trustee as detailed in the Deed) and proper financial records. A separate bank account should be opened in the name of the debtor's estate for the receipt and payment of funds relating to the Deed.

Trustee Accounts

The trustee should provide an annual account of the receipts and payments to the Registrar within 30 days of the end of each 12 month period. The accounts are available for public inspection on payment of the appropriate fee.

On completion of the Deed a final receipts and payment account, verified by affidavit, must be submitted by the trustee to the Registrar.

In addition to his duty to report to the Registrar, he must provide to the assenting creditors a copy of his receipts and payments account every 6 months.

Audit of Trustee Accounts

The Insolvency Service can be asked by a majority (in number and value) of assenting creditors, to audit the accounts of the trustee. In such circumstances the creditors concerned will be required to provide security to cover the costs of the audit. Any such requests should be made in writing to the Registrar at the above address.

Vacancy in office of Trustee

Where there is a vacancy in the office of trustee the Court can appoint a new trustee.

Unclaimed Dividends

Two years after registration the trustee, the debtor or any creditor can apply to the Court seeking an order that any unclaimed dividends and undistributed funds are paid into Court.

