

Dealing with Debt

How to petition for your own
bankruptcy

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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 section 12). 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 'Guide to Bankruptcy' (see section 10 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.

1. 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 courts 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.

2. 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 county court could make an administration order. Under the administration order, you make regular payments to the court, 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 court 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 £15,000, have assets worth less than £300 and have less than £50 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'.

3. How do I petition for my bankruptcy?

First, you will need to complete the following forms. You can get the forms, free of charge, from a local court that deals with bankruptcy. You can also print the forms off at The Insolvency Service's website at: www.insolvency.gov.uk

- The petition (Insolvency Rules 1986 form 6.27) - 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 1986 form 6.28) - 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 a Statement of Truth that you will need to complete

You should complete the petition and statement of affairs forms 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 give you legal advice.

If you are dealing with a county court, the court will need the completed forms and 2 copies of each before it can accept your petition for bankruptcy. If you are taking your petition to the High Court, you won't need any extra copies. When you have completed both forms and have the fees ready, you can go to the court and ask for your petition to be dealt with.

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 your local court or on our website: www.insolvency.gov.uk in 'Forms' and then 'Insolvency Partnerships Order Forms'.

4. How much will it cost to make myself bankrupt?

You may have to pay 3 fees when you take your petition and statement of affairs to court:

- The court fee of £150. 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 deposit of £450 towards the costs of administering your bankruptcy. This deposit is payable in all cases.

If you are a married couple and you are both applying for bankruptcy, you will each have to pay separate 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 1994. Forms for this are available from the court or on our website: www.insolvency.gov.uk in 'Forms' and then 'Insolvent Partnerships Order Forms'. The above fees should be paid in cash or postal orders, or by a cheque from a building society, bank or solicitor. Cheques should be made payable to 'HMCS'. Personal cheques will not be accepted.

5. Which court should I go to?

Not all courts can deal with bankruptcy matters. Bankruptcy petitions can be presented at the High Court in London, or in a county court that deals with bankruptcy matters. Generally, you should take your petition for bankruptcy to the court that deals with the area where you have lived or traded for the longest period in the previous 6 months. If you live in one court district and run your business in another, you should go to the court dealing with the district where your business is, as this takes priority over your home address. If you are not sure which court to go to, you should telephone your nearest county court for advice. The address and phone number of your local county court is listed under 'courts' in the phone book; you should look for 'civil courts - county courts' and not magistrates' courts. The courts are usually open to the public from 10am to 4pm Monday to Friday. You will need to contact the court to find out if it has jurisdiction to hear a bankruptcy case. The court Service website at www.hmcourts-serviced.gov.uk has a list of county courts with bankruptcy jurisdiction, and an index of county courts which will show you the geographical jurisdiction of each.

6. What will happen at 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 in our booklet 'Guide to Debt Relief Orders'.
- Appoint an insolvency practitioner - if the court thinks an individual voluntary arrangement would be appropriate. This will only be possible if your assets are more than £4,000; your unsecured debts are less than £40,000; and you have not been bankrupt and have not made an individual voluntary arrangement in the previous 5 years. 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.

7. 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. They 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 section 10 for details about where to get this leaflet.)

8. 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. (The court will give you the address and telephone number of 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.

9. When will my bankruptcy end?

If you do not co-operate with your trustee in bankruptcy, you could be arrested. 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). Further details are available in The Insolvency Service leaflet - 'When will my bankruptcy end?'

10. 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 your local official receiver's office. Publications are also available on our website www.insolvency.gov.uk

The Court Service publishes a series of information publications at: www.hmcourts-service.gov.uk

You can also contact The Insolvency Enquiry Line for general enquiries on insolvency matters on 0845 602 9848; or email: insolvency.enquiryline@insolvency.gsi.gov.uk

11. What additional help is available for users with a disability?

If a disability makes going to courts or communicating difficult for you, please contact the Customer Service Officer of the court concerned as they may be able to help. If the court's Customer Service Officer cannot help, please contact the court Service Disability Helpline on 0800 358 3506, between 9am and 5pm, Monday to Friday. Calls to this number are free. If you are deaf or hard of hearing, please use the Minicom service on 0191 478 1476.

12. 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 Secretary of State for Business and Enterprise or by one of a number of recognised professional bodies.

Jurisdiction - the authority of a court to deal with legal proceedings.

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. We do recommend that you choose a professional who has been accredited by the Lord Chancellor's Community Legal Service (CLS) and has the CLS Quality Mark. You can find out more from www.clsdirect.org.uk.

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

Organisation	Who they are	Contact details
Advisory, Conciliation and Arbitration Service (ACAS)	ACAS is a public body funded by taxpayers. It offers free help and information on work-related issues.	Helpline: 08457 474747 Opening hours: Monday to Friday 8am–8pm. Website: www.acas.org.uk . The ACAS website contains details of the local ACAS offices.
Business Debtline	Business Debtline is a registered charity that provides a free telephone debt-counselling service for the self-employed and small businesses facing financial hardship. Advice is free, independent and confidential.	Helpline: 0800 197 6026 Opening hours: Monday to Friday 10am–5pm. Website: www.bdl.org.uk
Citizens Advice	Citizens Advice is a registered charity that offers free, independent and confidential advice from more than 700 locations throughout the UK.	Helpline: 0207 833 2181 to find your local Citizens Advice Bureau (CAB). Opening hours: Monday to Friday 8am–6pm. Website: www.citizensadvice.org.uk which contains a directory of local CABs. For advice, visit the CAB Advice Guide website at www.adviceguide.org.uk
Community Legal Advice (CLA)	CLA is a free and confidential service paid for by legal aid. It is funded by the Legal Services Commission and delivered in partnership with independent advice agencies and solicitors.	Helpline: 0845 345 4345 Opening hours: Monday to Friday 9am–6.30pm. Website: www.clsdirect.org.uk

Organisation	Who they are	Contact details
Consumer Credit Counselling Service (CCCS)	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 138 1111 Opening hours: Monday to Friday 8am–8pm Website: www.cccs.co.uk
Consumer Direct	Consumer Direct is the government-funded telephone and online service offering information and advice on consumer issues. It is funded by the Office of Fair Trading and delivered in partnership with Local Authority Trading Standards Services.	Helpline: 0845 404 0506 Opening hours: Monday to Friday 8am–6.30pm. Saturday 9am–1pm. Website: www.consumerdirect.gov.uk
Lawyers For Your Business (LFYB)	LFYB is a Law Society initiative that represents some 1,400 firms of solicitors in England and Wales who have come together to ensure that businesses, especially the smaller owner-managed ones, get access to sound legal advice when they need it.	Helpline: 020 7405 9075 Opening hours: Monday to Friday 9am–5.00pm. You will be sent a list of the member solicitors in your area (including information on specialist areas of work and languages spoken) and a voucher for a free consultation. Website: http://www.lawsociety.org.uk/choosingandusing/helpyourbusiness/foryourbusiness.law
National Debtline	National Debtline provides free, confidential and independent advice over the telephone for anyone in financial difficulty. Callers will receive a free self-help information pack.	Helpline: 0808 808 4000 Opening hours: Monday to Friday 9am–9pm and Saturdays 9.30am–1pm. Website: www.nationaldebtline.co.uk
Business Link	Business Link is a free business advice and support service available online and through local advisors	Business Link Helpline 0845 600 9006 www.businesslink.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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